© THE QUEEN'S PRINTER FOR ONTARIO
1985

REPRODUCED WITH PERMISSION

L'IMPRIMEUR DE LA REINE POUR L'ONTARIO

REPRODUIT AVEC PERMISSION

micromedia
a division of IHS Canada

20 Victoria Street
Toronto, Ontario M5C 2N8
Tel.: (416) 362-5211
Toll Free: 1-800-387-2689
Fax: (416) 362-6161
Email: info@micromedia.on.ca

CA2ON
HR
. . .
A55
c. 2

Sessional Paper No.
1st Session 33rd Parliament
Tabled July 9, 1985

tario
man Rights
mmission

Ontario

Annual Report
1984-1985

HUMAN RIGHTS CODE

PREAMBLE

WHEREAS recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

AND WHEREAS it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province;

AND WHEREAS these principles have been confirmed in Ontario by a number of enactments of the Legislature and it is desirable to revise and extend the protection of human rights in Ontario;

William Davis

PREMIER

MINISTER OF LABOUR

Borden C Purcell

CHAIRMAN, ONTARIO HUMAN RIGHTS COMMISSION

LEGISLATIVE LIBRARY OF ONTARIO
JUL 1985

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

2.—(1) Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status, handicap or the receipt of public assistance.

(2) Every person who occupies accommodation has a right to freedom from harassment by the landlord or agent of the landlord or by an occupant of the same building because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, marital status, family status, handicap or the receipt of public assistance.

3. Every person having legal capacity has a right to contract on equal terms without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

4.—(1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, record of offences, marital status, family status or handicap.

(2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status or handicap.

5. Every person has a right to equal treatment with respect to membership in any trade union, trade or occupational association or self-governing profession without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status or handicap.

6.—(1) Every person who occupies accommodation has a right to freedom from harassment because of sex by the landlord or agent of the landlord or by an occupant of the same building.

(2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex by his or her employer or agent of the employer or by another employee.

(3) Every person has a right to be free from,

- (*a*) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- (*b*) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

7. Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing.

8. No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

100-03371/

ONTARIO HUMAN RIGHTS COMMISSION

ANNUAL REPORT

1984 - 1985

ISSN 0702-0538

CONTENTS

Page

Letter of Transmittal 1

Minister's Message 2

Chairman's Remarks 3

The Commission, 1984/85 4

Commission Activities, 1984/85 8

Legal Initiatives, 1984/85 14

Role and Activities of the Race Relations Division, 1984/85 19

Discrimination Because of Handicap 27

Regional Activities, 1984/85 32

Examples of Complaints of Discrimination, 1984/85 39

Decision of Boards of Inquiry and the Courts, 1984/85 55

Statistical Tables 68

Ontario Human Rights Commission Staff 97

Commission Offices 99

Ontario
Human Rights
Commission

Commission
ontarienne des
droits de la personne

Suite M-1-59A
Macdonald Block
Toronto, Ontario
M7A 1A2

Bureau M-1-59A
Edifice Macdonald
Toronto (Ontario)
M7A 1A2

Office of the
Chairman

Bureau du
président

416/965-2388

June 1985

The Honourable R. G. Elgie, M.D.
Minister of Labour
400 University Avenue
14th Floor
Toronto, Ontario
M7A 1T7

Dear Dr. Elgie:

Pursuant to Section 30(1) of the Human Rights Code, 1981, it is my pleasure to provide to you the Annual Report of the Ontario Human Rights Commission for the fiscal year 1984/85 for submission to the Legislative Assembly of Ontario.

Yours sincerely,

Borden Purcell

Canon Borden Purcell
Chairman

MINISTER'S MESSAGE

As Minister responsible for Human Rights, I am delighted to have this opportunity to thank Commissioners and staff of the Ontario Human Rights Commission for a particularly active year which saw several new thrusts in programs and legislation.

One of the Commission's major initiatives in 1984-85 was a conference with more than 100 Chief Executive Officers from Ontario to discuss a specific human rights issue - the merit principle in hiring practices. This meeting generated stimulating discussion which I believe will have a significant, positive impact on the further development of equitable hiring and promotion practices in this province.

In June, 1984, a new provision came into effect in the Ontario Human Rights Code. All provincial statutes and regulations became subject to the Code unless they contain specific exemption from it. This created a considerable increase in the Commission's caseload, which its able and dedicated staff is working hard to meet.

To deal with the large volume of cases in southwestern Ontario, a new regional jurisdiction was established in Hamilton to serve the Hamilton-Niagara peninsula.

The Commission's expanding activities will continue to be guided by Canon Borden C. Purcell who has agreed to serve a second three-year term as Chairman.

I have every confidence that the people of Ontario will continue to benefit from the Ontario Human Rights Commission's efforts to enhance equality and social justice in the province.

Yours sincerely,

R. H. Ramsay

Russell H. Ramsay
Minister

CHAIRMAN'S REMARKS

I am greatly honoured to have been reappointed as Chairman for another three-year term, and share the pleasure of my fellow Commissioners in looking forward to a new and exciting era in human rights.

The Commission has undertaken a number of special initiatives this year, and their success bodes well for new developments throughout the coming year. They will be outlined in more detail in the section entitled "Commission Activities", but I would like to briefly highlight them here.

As part of our continuing effort to engage in dialogue with members of each community in the province, the Commission launched the first in a series of community consultations in London, Ontario, on November 7, 1984. Close to 100 community representatives from London, Sarnia, Chatham, Guelph, Kitchener, Waterloo, Brantford and Hamilton gathered to share and discuss common goals and issues of concern to southwestern Ontario.

On February 7, 1985, the Commission sponsored its first formal conference for 125 senior executives of business and industry. Entitled "The Merit Principle in Action", the seminar was designed to dispel a number of myths about the impact of human rights legislation on business, and provide an opportunity for the participants to exchange, with one another and with the Commission, various programs, policies and philosophies to assist them in complying with the Code.

I was honoured, last fall, to be invited to attend a seminar/workshop in Eisenach, East Germany, on Human Rights and National Sovereignty, as one of four Canadian delegates. The seminar focused on Principles VI and VII of the Helsinki Final Act, to which Canada is a signatory, and contributed to the agenda for the Conference on Security and Co-operation in Europe, which took place in Ottawa in May.

It is with regret that the Commission acknowledges the end of the terms of office of Rabbi Gunther Plaut, Vice-Chairman and Dr. Albin Jousse. Their expertise and wise counsel have been invaluable to us, and we wish them well in their future endeavours. Commissioner Sam Ion resigned from the Commission in October, 1984 to assume her new duties as President of the Ontario Advisory Council on Women's Issues, and I trust its needs will be well served by her.

On behalf of my colleagues, I would like to extend a warm welcome to our four new Commissioners, Lou Ronson, Catherine Frazee, John Bennett and Leslie Blake-Coté, whose work experience, expertise and sensitivity to human rights issues will ensure that the work of the Commission will continue to be of the highest calibre.

Again, I express my personal gratitude to our Minister of Labour, the Honourable Russell H. Ramsay, for his wisdom, unfailing co-operation and support of our endeavours. As for our staff, I continue to hold them in the highest regard, and offer them my full confidence and encouragement.

The coming year will bear witness to many changes and challenges, which we must all be prepared to meet. I once again place my trust in the goodwill of the people of Ontario to assist the Commission in fulfilling our mutual goals of equality of opportunity, quality of life, dignity and respect.

THE COMMISSION

Back row, left to right:
Aileen Anderson, Louis Alexopoulos, Bev Salmon (Race Relations Commissioner), Dr. Albin Jousse, Mary Lou Dingle
Front row, left to right:
Rabbi Gunther Plaut (Vice-Chairman), Canon Borden Purcell (Chairman), Marie Marchand
Absent: Dr. Bhausaheb Ubale (Race Relations Commissioner), Sam Ion

The following Commissioners were appointed for three-year terms effective February 19, 1985:

Commissioner: John Bennett

John Bennett resides in Sault Ste. Marie and has been employed by The Algoma Steel Corporation Ltd. since 1950. Actively involved in union activities, Mr. Bennett also serves on the Boards of the United Way, Sault Ste. Marie Library, Sault College of Applied Arts and Technology and the Canadian Mental Health Association.

Commissioner: Catherine L. Frazee

Catherine Frazee, currently the Product Standards Coordinator for Esso Petroleum Canada, holds Board membership in the Canadian Paraplegic Association, and has actively served as a volunteer with a variety of community organizations such as the Canadian Special Olympics for the Mentally Disabled, the International Year of Disabled Persons and Daybreak Community for Mentally Disabled Adults.

Commissioner: R. Lou Ronson

R. Lou Ronson is Chairman of the Board of Workwear Corporation of Canada, and holds directorships in over twenty business and community organizations. The recipient of numerous humanitarian awards, including the National Human Relations Award - Canadian Council of Christians and Jews, Mr. Ronson was also Chairman of an International Trade Mission sponsored by the Ontario Ministry of Industry and Tourism and the Canada-Israel Chamber of Commerce.

Commissioner: Leslie Blake-Coté

Leslie Blake-Coté utilizes her varied background in teaching, print and broadcast journalism and public relations as a feature writer for local and national trade magazines and newspapers, and researcher/host of numerous cable television documentaries. Ms. Blake-Coté is also actively involved in community and volunteer endeavours.

Top: Rabbi Gunther Plant, Canon Borden Purcell
Centre: Commission meeting
Bottom: Dr. Albin Jousse and Louis Alexopoulos

SPEAKER
SPEAKER

Business Conference: "Merit Principle in Action"
Top, left to right: The Honourable Russell H. Ramsay, Minister of Labour,
The Honourable Robert Welch, Minister Responsible for Women's Issues,
Canon Borden Purcell
Bottom, left to right: Grete Hale, President, Morrison Lamonthe, Inc.,
Marie Marchand, The Honourable Phil Gillies, Minister Without Portfolio for
Youth

COMMISSION ACTIVITIES

1984/85

The aim of the Ontario Human Rights Commission is to create a climate of understanding and mutual respect wherein the dignity and worth of every person is recognized, and where equality of rights and opportunities is provided without discrimination.

Public Education and Consultation

In an effort to accomplish this goal, the Commission places a strong emphasis on public education. From its daily experience, the Commission has become increasingly aware of the ongoing need to educate groups and individuals about their rights and responsibilities under the Code and the principles underlying its provisions.

During fiscal year 1984/85, the Chairman, Canon Borden Purcell, and Commissioners participated in consultations and educational events throughout Ontario concerning human rights and the Commission's programs of conciliation, compliance and race relations. The Chairman gave more than 25 formal speeches, participated in over 20 major conferences and attended more than 375 public education and community functions and consultations. The audiences of these speaking engagements and public educational activities included employers, unions, women's groups, religious institutions, cultural organizations, associations assisting persons with a handicap, police, service clubs and students. In addition, the Chairman and Commissioners were interviewed many times by the print, broadcast and cable media throughout Ontario, including the French language and ethnic press. As well, the Commission's staff continued its extensive educational programs of seminars, films, conferences, distribution of materials and consultations.

During the monthly meetings of the Commission and the Race Relations Division, a number of individuals and organizational representatives were invited to exchange information which, in turn, enabled the Commission to be kept abreast of particular human rights concerns. These discussions assisted the Commission in its development of policies and programs. Through this format, mutual goals are recognized, as well as the need for co-operation in achieving them.

Close contact with school boards, organizations, community groups and individuals committed to the advancement of human rights principles enabled the Commission to hold, co-sponsor and participate in many seminars and conferences throughout the province during the fiscal year, in an attempt to further increase awareness of and sensitivity towards human rights in our society. These events are discussed in further sections of this report.

Last year, the Chairman and Commissioner Marie Marchand travelled throughout Northern Ontario as part of the Commission's public education initiative. This past year, the Chairman travelled extensively throughout eastern and southwestern Ontario, addressing groups and meeting with many community organizations and leaders.

Each of the Commissioners participated in public education and human rights awareness programs in their local communities. For example, Mary Lou Dingle, a Hamilton lawyer, participated in a number of human rights forums, including the Filipino Independence Day Gala, seminars at the McMaster School of Social Work, Sherwood Heights Secondary School, the Women's Networking Group, the Association of Administrative Assistants, the Ancaster Rotary Club and the Women's Guild at Christ Church, Bullock's Corners.

Business Conference

On February 7, 1985 the Commission hosted a one-day conference entitled "The Merit Principle in Action". It was attended by 145 Chief Executive Officers, Vice-Presidents and other representatives of major Ontario-based corporations.

In preparation for the conference, the Chairman met with a number of business leaders on an individual basis. The Chairman also addressed the Round Table Club of Toronto, comprised of executives of many of the large corporations in Ontario.

The purpose of the conference was to provide a forum for the Commission and the private sector to engage in dialogue on the topic of equal opportunity in employment and the benefits to business of taking a proactive approach to human rights.

The conference opened with welcoming remarks from the Minister of Labour, the Honourable Russell H. Ramsay. The morning session included a panel of business leaders, the Deputy Minister of Labour, the Commission's legal counsel, and the Chairman speaking on the topics of "Dispelling the Myths" and "What the Chief Executive Officer Needs to Know from the Ontario Human Rights Commission".

Business leaders on the panel provided a sampling of corporate success stories in which special programs, aimed at more frequent and better utilization of women, people with a handicap, Native people and racial minorities, have benefited their companies in terms of productivity, morale and profits. At lunch, the Honourable Robert Welch spoke forcefully and eloquently about equal opportunity for women.

The afternoon's session was entitled "What the Ontario Human Rights Commission Needs to Know from Business". This provided an opportunity for the Commission to hear the concerns of business about implementing the Code and equal opportunity. The Vice-Chairman of the Commission closed the conference by emphasizing that the best interests of all of us are served by recognizing the multi racial, multi ethnic and multi religious nature of the workplace, utilizing the merit principle and working together to prevent complaints of discrimination.

Affirmation

Rabbi W. Gunther Plaut, former Vice-Chairman of the Commission, is the editor of "Affirmation", the Commission's quarterly. It contains feature stories, personal profiles, examples of significant cases and settlements, findings of boards of inquiry, editorials and articles on important human rights topics. Articles are written by staff, Commissioners and interested members of the public. "Affirmation" has a circulation of 10,000, including employers, schools, labour, community organizations and members of the general public.

The June 1984 edition featured an article on discrimination on the basis of pregnancy and an editorial on age discrimination. September's issue included the adapted text of a speech given by the editor to the Urban Alliance on Race Relations and an explanation of special employment programs aimed at achieving employment equity.

"Affirmation's" December 1984 issue featured an article on the first board of inquiry decision under the new Human Rights Code respecting a complaint taken under the new ground of handicap. In the same issue, Rabbi Plaut wrote an editorial on December 10, the anniversary of the Universal Declaration of Human Rights. The Chairman's corner provided an in-depth look at discrimination against people with a handicap.

March 1985's "Affirmation" had an article on the implications of the equality rights section of the Canadian Charter of Rights and Freedoms. There was also an article on the board of inquiry and appeal to the Divisional Court of the Supreme Court of Ontario regarding the complaints of sexual harassment of six female employees of Commodore Business Machines Ltd. In addition, three of the four "Affirmations" included articles in French.

Bicentennial Celebrations

Ontario celebrated its Bicentennial throughout 1984. To mark the occasion, the Commission sponsored a play produced by Theatre Direct Canada called "New Canadian Kid", an innovative, sensitive and emotionally involving play about the difficulties of being the new and different kid-on-the-block. "New Canadian Kid" was highly praised by the over 5,000 elementary school children and teachers who saw it.

The Chairman authored an article on the history of human rights in Ontario for inclusion in a commemorative Bicentennial book produced by the Ministry of Citizenship and Culture.

As well, 5,000 copies of the Commission's Human Rights Scroll were distributed to agencies and institutions throughout the province.

Commission and Community Meeting, London, Ontario

As part of our mandate of responding to human rights issues and concerns throughout the province, and in an effort to open dialogue with the community, the Commission held a Consultation with community leaders, employers and the general public at the London Regional Art Gallery on the evening of November 7, 1984.

Over 100 people from London, Sarnia, Brantford, Chatham, Kitchener, Waterloo, Guelph and Hamilton, representing ethnic, women's, handicap and Native groups as well as educational and employment leaders, attended. The Commissioners opened the Consultation by discussing the Code and the Commission's mandate and goals. The question-and-answer and general discussion period allowed for information sharing and discussion of issues of mutual concern. Senior staff and the Southwestern Region staff of the Commission participated in the discussions.

International Responsibilities

Canada and its provinces and territories have been involved in the international human rights arena for many years. In signing the United Nations Declaration of Human Rights in 1948, all member nations assumed an obligation to promote human rights at home and abroad. Canada's interest was heightened during the Helsinki Conference of 1975 and the adoption of its Final Act, which was the reiteration by all participants of their international human rights commitments.

The Commission forms part of and holds membership in a network of human rights agencies on both the national and international levels. During the fiscal year, Commission representatives participated in conferences held by the International Association of Official Human Rights Agencies, the Canadian Association of Statutory Human Rights Agencies and the Federal-Provincial-Territorial Committee of Officials Responsible for Human Rights. A number of representatives from human rights commissions in the United States, Australia and the United Kingdom sought information and assistance by exploring and examining the role and function of the Ontario Commission.

A Federal-Provincial Ministerial Conference on Human Rights, held in 1975, created a new national organization called the Continuing Federal-Provincial-Territorial Committee of Officials Responsible for Human Rights. This committee, which meets at least twice a year, was established to provide and maintain the necessary liaison and consultation for Canada to meet its obligations under the International Covenants. Ontario has been an active participant on the Continuing Committee since its inception.

The Continuing Committee has co-ordinated several conferences of ministers responsible for human rights, modelled after the initial one held in 1975, during which ministers from all jurisdictions in Canada review and discuss current issues and initiatives in the area of human rights. This forum enables the members to gain a common understanding of problems and concerns in the different regions of Canada and to keep abreast of Canada's role in addressing human rights issues in the international arena. In addition, the ministers propose ways in which human rights programs in Canada can be strengthened to ensure that they conform to the principles enunciated in the International Covenants.

The Chairman participated in a number of activities relating to the protection of human rights throughout the world. In November, he met with religious leaders from many countries at the Human Rights and National Sovereignty Workshop in Eisenach, East Germany. In February he attended a meeting in Ottawa to plan Canada's contribution to the Experts Meeting on Human Rights, which was held in Canada in May of 1985. Representatives from the 35 nations involved at the Madrid Follow-up Meeting of the Conference on Security and Co-operation in Europe attended this meeting to discuss the need for more progress throughout the world with respect to the Helsinki Final Act. Among other events, the Chairman was a panelist at a symposium on Human Rights Abuses in Eastern Europe, sponsored by Amnesty International at the University of Toronto. He also spoke at a fund-raising dinner sponsored by the Canadian Association of Rehabilitation Personnel to help famine victims in Ethiopia. In addition, he attended the Canadian Human Rights Foundation Conference on Human Rights and Canadian Foreign Policy, held in Ottawa in March.

Trip to the Soviet Union

At the end of the last fiscal year (March 1984), the Chairman travelled to the Soviet Union with a Canadian delegation including journalist Charlotte Gray of Ottawa, Robert Nixon, member of the Ontario legislature and the Reverend Stanford Lucyk of Timothy Eaton Memorial Church in Toronto. The purpose of the trip was to visit "Refusenik" communities in Moscow, Leningrad and Riga. Refuseniks are Russian Jews who have applied for, and who have been refused, exit visas from the Soviet Union.

Upon his return, Canon Purcell wrote: "Living in a part of the world where freedom of speech and thought are taken for granted, it is difficult for us to comprehend or fathom a political system where the mere utterance of truth or the adherence to religious faith or the wish to emigrate in order to practise freely one's religion and beliefs elsewhere is fraught with cruel encumbrances, including imprisonment, exile, waiting for years for permission to leave, revocation of academic qualifications and other abuses."

The Chairman has spoken and written publicly about this trip since his return and has emphasized the need for Canada to insist that the Soviet Union, and other nations as well, live up to the obligations inherent in the signing of the Helsinki Treaty.

United Nations Declaration of Human Rights - 36th Anniversary

December 10, 1984 marked the 36th Anniversary of the United Nations Universal Declaration of Human Rights, whose principles form an integral part of the preamble to the Human Rights Code. The adoption of the Declaration was particularly charged with excitement because, for the first time, nations of the world spoke with one voice to proclaim the fundamental principles of human rights. The Declaration serves not only as an inspirational tribute to human values, but also as a commitment to the furtherance of universal social harmony.

The Commission once again paid tribute to the Universal Declaration and the principles contained therein, by way of 10,000 letters and lists of suggested celebratory activities sent to all schools, industry, unions, government agencies, religious institutions, and community groups, in both English and French. All schools received, as well, a copy of the Commission's 1983/84 Annual Report in French and English.

The Commission wrote special letters to municipal leaders, requesting them to proclaim Human Rights Day/Week, and to encourage observance of this event at the community level. Many municipalities responded positively to this request, by publishing and distributing official proclamations of support and adherence to the principles of human rights.

The Commission issued a press release about Human Rights Day/Week to all media representatives in Ontario, who, in turn, responded by way of radio, television and newspaper coverage of local events commemorating the Anniversary. Members of the Commission were interviewed by radio, television and the press.

Schools throughout the province responded with requests for classroom and assembly speakers, literature and assistance in designing a human rights component as part of the curriculum.

Ontario industries and businesses included articles on human rights in their internal publications, enclosed a letter about the significance of Human Rights Day and the Human Rights Code in employee's pay envelopes and requested Commission publications in quantity for distribution to their employees.

Non-governmental organizations and concerned individuals across Ontario were involved in a wide variety of activities in celebration of the 36th Anniversary, in co-operation with the Ontario Human Rights Commission and other agencies dedicated to the promotion of human rights.

On December 7, Canon Purcell addressed the opening meeting of the newly constituted Ontario Advisory Council on Multiculturalism and Citizenship, and focused his comments on the significance of Human Rights Day. He was also the keynote speaker at a special commemorative Solidarity Hunger Fast for Soviet Jewry, which took place outside the Legislative Building on December 10.

Clearly, individual human rights commissions and human rights legislation will not end discrimination on their own. The Ontario Human Rights Commission has a uniquely important role to play, but it requires the assistance and responsibility of all individuals, organizations and institutions in our society in order to improve human rights and afford each individual the dignity and equality of opportunity that is his/her due.

LEGAL INITIATIVES

1984/85

Judicial and Quasi-Judicial Decisions

Early in the year, the first board of inquiry decision dealing with discrimination because of handicap, and indeed the first decision under the Human Rights Code, 1981, was rendered - Cameron and Nel-Gor Castle Nursing Home. In the decision, the board of inquiry reviewed the evolution of human rights law in Ontario and Canada. This decision is summarized at page 55 of this report. In essence, the board held that the complainant's handicap did not in any way limit her ability to perform the essential duties of the position that she was denied.

Other important issues have been addressed by boards of inquiry and courts this year. In the case of Mark and Porcupine General Hospital, the complainant was dismissed from her new position when the employer learned that she was married to another employee who worked in the same department. The board of inquiry interpreted "marital status" to include not just the status of being married, but also to apply to a case where the identity of the complainant's spouse is at issue. The board chairman noted, however, that the exemption contained in section 23(d) of the Code, which provides that an employer may grant or withhold employment or advancement in employment to a person who is the spouse of the employer or an employee, is limited to granting or withholding employment in the first instance. Thus, it does not provide for an employer to dismiss a person who is already an employee: "Once Mrs. Mark become an employee, she was entitled to the full protection of the Code." This case will undoubtedly have important implications for other complaints. A summary of this decision appears on page 57 of this report.

The application of certain provisions of the Canadian Charter of Rights and Freedoms was considered by the Divisional Court of the Supreme Court of Ontario in the case of Olarte et al v. Commodore Business Machines Ltd. and Rafael DeFilippis. In this case, counsel for the company had argued that his client had been denied the legal rights provided by section 11 of the Canadian Charter of Rights and Freedoms. However, section 11 only provides rights upon being charged with an offence, and the court found that a complaint under the Code is not charging a person with an offence; therefore, section 11 has no application. The manner in which the chairman of the board was appointed was also questioned, and the court concluded that there was no evidence to suggest that there was any bias operating in the appointment of the board chairman. The important question of similar fact evidence was also considered. The chairman had admitted and relied on the evidence of other female workers at Commodore that they had been subjected to sexual harassment by Mr. DeFilippis. The Divisional Court held that the board chairman had properly admitted and considered this similar fact evidence.

Boards of inquiry were appointed to consider two complaints alleging discrimination on the grounds of age, sex, marital status and family status in the issuance of automobile insurance policies. The two cases are Hope and Royal Insurance and Bates and Zurich Insurance. The hearing in the latter case concluded in March 1985. The board was requested to consider whether or not the differentiation in the policies on these grounds is reasonable and bona fide.

The important case of the Ontario Human Rights Commission v. Simpsons-Sears was heard by the Supreme Court of Canada during the fiscal year. The case is of national importance in that it concerns the issues of non-intentional discrimination and reasonable accommodation. A decision is expected in late 1985.

The complaint was filed under the Ontario Human Rights Code, R.S.O., 1980 which did not contain specific provisions with respect to constructive discrimination. Its application to cases involving this type of discrimination has never been judicially interpreted by the Supreme Court of Canada. The complainant alleged that her job was reduced to part-time because her religious beliefs made it impossible for her to work on Saturdays. When the board of inquiry dismissed the case, the Commission appealed the decision. The appellate court held that the previous Code prohibited intentional discrimination only and found that there was no intent on the part of Simpsons-Sears Ltd. to discriminate against the complainant because of her creed.

Although the new Code specifically includes constructive discrimination, the Commission decided to appeal the Court of Appeal's decision because of its far-reaching implications, not only for the determination of cases pending under the old Code, but also for other Canadian jurisdictions whose statutes lack specific mention of constructive discrimination. The Supreme Court of Canada granted leave to the Commission to appeal the decision and granted intervenor status to the Canadian, Manitoba, Saskatchewan and Alberta Human Rights Commissions, underlying the national importance of the issue.

Canadian Charter of Rights and Freedoms

The coming into force of the equality rights provisions of the Canadian Charter of Rights and Freedoms on April 17, 1985 has resulted in an increased public awareness of human rights.

The equality rights provisions are expressed in sections 15, 27 and 28. Section 15 contains substantive or fundamental equality provisions. Section 28 refers to sex equality and section 27 refers to the preservation and enhancement of the multicultural heritage of Canadians.

In keeping with the broad scope of the Charter, the list of protected grounds in section 15 is not exhaustive. The determination of what other grounds may be included in 'equality rights' is left open to judicial consideration. This is in contrast with the Code, where the list of prohibited grounds is exhaustive and protection is provided only to those areas cited in Part one.

Task Force and Royal Commission Reports

On another front, the fiscal year saw the release of several reports which have direct bearing on human rights. The second volume of the Report of the Task Force on Equal Opportunity in Athletics, "Can I Play?", was released and discussed the status of equal opportunity between the sexes in athletics in educational institutions - elementary and secondary schools, and colleges and universities. On the national scene, Judge Rosalie Silberman Abella's Royal Commission Report on Equality in Employment was released and studied the employment status of women, Native peoples, disabled persons and visible minorities in Crown corporations. While not directly involving provincial jurisdiction, the report sparked considerable public discussion on discrimination and equality issues.

The Role of Statistics in Proving Discrimination

The use of statistical analysis in discrimination cases is increasingly important as a result of the shift from an individual to a systemic perspective that has occurred in the last few years.

In the 1950's and 1960's, discrimination was perceived as a matter of isolated incidents resulting from the ill-will of prejudiced individuals. Case work was oriented towards identifying and "educating" those individuals. This approach met with little resistance and litigation was seldom necessary. By the 1970's, experience had demonstrated this approach to have little impact on improving the socio-economic situation of minorities and women and a new understanding of discrimination started to emerge. It is now clear that discrimination is a complex phenomenon resulting more from widespread practices than from isolated events. Discrimination is frequently the result of cultural, social and economic biases that have become institutionalized to the point of self-perpetuation.

Consistent with this perspective, case work now focuses on establishing the effects of these practices and on how to dismantle them. Settlement efforts now aim at obtaining specific, measurable gains for the affected groups, even though such measures are often perceived as a threat to the status quo and may be vigorously resisted. Statistics have therefore become an essential tool as they can best summarize the impact and extent of such practices and provide evidence of discrimination that is considered to be admissible by boards of inquiry and courts.

In the United States, the courts have, since the 1970's, with cases such as Griggs, McDonnell, Hazelwood and Hester, acknowledged the value of statistics. The merits of various statistical analysis models have been extensively litigated. At the same time, the courts are aware of the pitfalls inherent in a quantitative approach and have cautioned that:

> "Too many use statistics as a drunk uses a lamp post -
> for support and not for illumination".
> (Keely v. Westinghouse, FEP Cases 1408 (E.D. Mo 1975))

However, their value is now beyond dispute and a great many of the substantial gains made by minorities and women through anti-discrimination legislation are attributable to the use of statistics.

Ms. Blake, a black woman who is over 40 years old, alleged that she had applied for a position as correctional officer at the Mimico Correctional Institute on three different occasions and was refused employment because of race, colour, age and sex. A board of inquiry was appointed to hear this complaint, and the decision of the board is summarized at page 61 of this report. It is highlighted here, however, because in Canada, statistical analysis is only recently emerging in anti-discrimination cases, and its use is being watched with special interest. The decision in Blake and the Ministry of Correctional Services, Mimico Correctional Institute, makes extensive use of statistics and provides guidance for future usage. It is therefore an important decision to consider. The evidence indicated that the hiring process was unstructured and highly dependent on subjective assessments. "Suitability" for the job, as defined by the interviewers, appeared to be the operative criterion. In such circumstances, the individual complainant's story must be placed in the context of the general hiring practices of the respondent in order to arrive at an assessment of the situation.

The Commission collected data and prepared an Applicant Flow Analysis for the two stages of the hiring process, that is, a comparison of the numbers and percentages of the applicants available, those selected for interviews, those rejected and those hired, according to their sex, race, ethnic origin and age. Substantial discrepancies were noted, with candidates who were male, white and under 40 being interviewed at higher rates than candidates who were female, non-white and over 40. These discrepancies increased multi-fold from the interview to the hiring stage, especially with reference to sex. The chart below summarizes the analysis according to sex that was presented to the board. A similar analysis, with similar, though less dramatic results, was introduced for racial and ethnic origin and age.

	Males		Females	
Applicants	423	100%	172	100%
Interviewed	132	31% (of 423)	32	19% (of 172)
Hired	49	37% (of 132)	2	6% (of 32)

The statistical analysis also showed that height and weight were significant factors in determining who would be interviewed and hired. An expert statistician testified that he had performed multiple regression analyses to ensure that groups were measured simply on the basis of sex, height/weight, ethnic origin and race, with other factors such as education being held constant. The results of these analyses indicated that sex, ethnic origin and age were used as significant predictors of whether or not a candidate would be interviewed and hired. Moreover, the statistician's regression analyses showed that, considering all factors, ethnic origin and weight were the two most significant factors in deciding who would be interviewed and who would be hired.

The board considered the issue of whether the employer's requirement for physical size had an adverse impact on women, and noted that the employer had not argued that weight was a bona fide occupational qualification and had in fact denied that there was any minimum weight standard. There was also consideration of testimony regarding comments by officials at Mimico that were sexist and racist in nature. In review, the board chairman found that " . . . sex was the main ground at issue" and determined that "a prima facie case of discrimination because of sex under the Code was made out by statistics alone in this inquiry". It was also the opinion of the board that discrimination because of sex was endemic to the recruitment system at Mimico until a new superintendent was appointed in 1977.

Once a prima facie case is established by the complainant, the burden of proof shifts to the respondent who may then rebut the allegations by presenting evidence of a legitimate reason for the practices in question. In this instance, the superintendent explained his reasons for not hiring Ms. Blake, on the basis of her performance during the employment interview, and outlined his efforts to objectify and professionalize the recruitment process. The board accepted these explanations and found that discrimination was no longer being practised at Mimico. Hence, the complaint was dismissed and no settlement (specifically, affirmative action and monitoring of hiring as requested by the Commission) was imposed.

With respect to the use of statistics, the decision is important on several points. It establishes a Canadian precedent that statistics alone can make out a prima facie case of discrimination, a premise which is especially meaningful where the evidence is not linked to a particular individual's complaint. It also clarifies several thorny issues with respect to the use of statistics: human rights officers can be used to collect and analyze data, subject to cross-examination as to the methods used. A determination may be made of the race and ethnic origin of candidates from information on application forms such as surnames, place of education and work experience, along with personal contacts where doubt exists. Also, statistical evidence cannot be rebutted by mere assertions as to its deficiencies. Rather, the rebuttal must show that those deficiencies affected the statistical results in a systematic way and that they, rather than discrimination, accounted for the discrepancies in question.

Commission Procedures

In response to the continuing evolution of administrative law and concepts of administrative fairness, the Commission this year examined its procedures and formalized its policies regarding disclosure of the findings of the investigation to complainants and respondents, in order to afford a greater degree of fairness to both sides. Parties involved in a complaint with the Commission have the right to know in writing the substance of the findings of the investigation and the right to have an opportunity to make written submissions to the Commission regarding a case. While the Commission has been affording this opportunity to both sides for several years, the procedures are now formalized and standardized across the province. Formerly, the parties were informed verbally of the investigation findings; these findings are now provided in writing.

ROLE AND ACTIVITIES OF THE

RACE RELATIONS DIVISION

1984/85

The Race Relations Division of the Ontario Human Rights Commission was formally established in 1979 to replace the Community, Race and Ethnic Relations Unit.

Under section 27(2) of the Code, it is the function of the Race Relations Division to perform any of the functions of the Commission under section 28(f), (g) or (h) relating to race, ancestry, place of origin, colour, ethnic origin or creed that are referred to it by the Commission, and any other function referred to it by the Commission.

Section 28(f), (g) and (h) provide that it is the function of the Commission:

- to inquire into incidents of and conditions leading or tending to lead to tension or conflict based upon identification by a prohibited ground of discrimination and take appropriate action to eliminate the source of tension or conflict;
- to initiate investigations into problems based upon identification by a prohibited ground of discrimination that may arise in a community, and encourage and coordinate plans, programs and activities to reduce or prevent such problems;
- to promote, assist and encourage public, municipal or private agencies, organizations, groups or persons to engage in programs to alleviate tensions and conflicts based upon identification by a prohibited ground of discrimination.

In carrying out its mandate, the Division promotes the principle that human rights and harmonious race relations cannot be achieved by human rights commissions alone. The co-operation of all members of the society is integral to the effectiveness of the Division's programs. It is clearly stated in the Code that, in responding to community tension and conflicts, both preventive and remedial approaches must be taken. During fiscal year 1984/85, the Division streamlined and reorganized its programs by establishing three main units - Policy and Program Development, Operations, and Finance and General Administration. This reorganization facilitates the implementation of the Division's programs which include the development of resource materials, the holding of consultations, seminars, and conferences with community groups and institutional representatives, the monitoring of the current race relations climate, as well as the mediation of race-related conflicts and tensions in the community.

ACTIVITIES, 1984/85

COMMUNITY, RACE AND ETHNIC RELATIONS

Youth Employment

Metropolitan Toronto

The high unemployment rate and its particularly severe impact on racial minority youth in Metropolitan Toronto continued to be a critical issue during the fiscal year. In its effort to defuse racial and ethnic tensions and to improve the race relations climate, the Division continued its special youth employment project in the summer of 1984.

This project, funded by the Ontario Youth Secretariat, is in its fourth year of operation. It provided for the placement for a period of eight weeks of over 100 young people from several neighbourhoods in the Metropolitan area in a great variety of jobs. In addition to gaining valuable work experience, these young people received race relations and life-skills training.

With the assistance of community advisory committees, composed of representatives of local agencies and institutions, the Division recruited participants, sponsored employers, and selected resource persons. In planning the project, the Division endeavoured to ensure that the racial mix of the participants reflected the racial composition of the unemployed youth in the area.

In a continuing effort to improve police-youth and police-minority relations in Metropolitan Toronto, the Division and the Metropolitan Toronto Police co-sponsored, for the second year, a youth employment project in the summer of 1984. This project enabled 35 youths from multi-racial backgrounds to work closely with the police in delivering services to senior citizens for a period of eight weeks. Modelled upon the Division's own summer youth employment project, it also provided race relations and life-skills training for the participants.

For the second year, the Division also conducted its Winter Youth Employment Project in Metropolitan Toronto. This 16-week project, designed to assist young people in gaining first-time job experience during the winter, was modelled upon the summer projects conducted by the Division.

Southwestern Ontario

In 1984, the Division expanded its summer youth employment project to include the city of Windsor. This project was also funded by the Ontario Youth Secretariat and 13 young people were placed with various employers in the private sector. Many community group representatives assisted the Division in planning the project and contributed to its success. In addition, the Ministry of Labour's Personnel Branch provided invaluable assistance during the recruitment, screening and hiring process.

Municipal Involvement

Metropolitan Toronto

A primary objective of the Division is to encourage and assist municipal governments to engage in proactive programs designed to avert the development of racial tensions. A number of race relations issues emerged in Scarborough during fiscal year 1984/85, including the dissemination of hate literature against Chinese-Canadians. In May 1984, it was reported that derogatory comments about Chinese-Canadians were being expressed by white residents of Agincourt, relating to the establishment of a new Chinese shopping centre in the area. While a number of residents cited concerns about traffic and parking issues relating to the mall, many were simply expressing anti-Chinese sentiment.

In response to this problem, the Federation of Chinese-Canadians in Scarborough was formed with the aim of promoting an improved race relations climate in Scarborough. In addition, the Scarborough Mayor's Task Force on Multiculturalism and Race Relations prepared a report on race relations issues in the community. The Division played an instrumental role in assisting the Task Force to research this report. The Federation of Chinese-Canadians in Scarborough was represented on the Task Force.

After the submission of the Task Force report, the Scarborough City Council struck a committee to develop a strategy for addressing race relations and multicultural issues. The Division has assisted the committee in an advisory capacity.

The Division continued to provide advice and assistance to various municipal committees on race relations in Metropolitan Toronto.

Southwestern, Hamilton-Niagara and Eastern Regions

In Hamilton, allegations were made by various individuals, religious organizations and labour groups regarding racial discrimination against taxi drivers of South Asian descent by several taxi companies. The Division, in co-operation with several community groups, assisted in the planning and co-ordination of a steering committee which was asked to develop a formal proposal to the Mayor and City Council of Hamilton on the creation of a municipal race relations committee. Formal complaints against the taxi companies were dealt with by the Conciliation and Compliance Division.

In Windsor, the Division played a significant advisory role to the Mayor's office with respect to the proposed formation of a municipal committee on race relations.

The Division also assisted the City of Ottawa in preparing and implementing its policy on multiculturalism.

Public Education

The Race Relations Commissioner, Dr. Bhausaheb Ubale, continued to engage in activities focusing on the promotion of harmonious race relations in the province through public education and consultation. During fiscal year 1984/85, the Commissioner participated in 96 public education undertakings. He consulted with community leaders and representatives from various institutional sectors, and sponsored a number of forums to promote a better understanding of race relations and the contributions of racial minorities to community life. These included an exhibition of the work of two prominent Black artists and a public lecture on "Affirmative Action".

Mrs. Bev Salmon, also a Commissioner of the Race Relations Division, also conducted or participated in public educational and consultative activities during the year, as did members of the Division's staff. Public educational activities totalled 448, and 21 public education projects were undertaken.

Metropolitan Toronto and its Surrounding Regions

The Division continued to assist various community groups in the Municipality of Metropolitan Toronto and surrounding regions in developing and delivering educational projects to enhance the race relations climate. Two important conferences were organized in fiscal year 1984/85: The Tropicana symposium and the conference of the Peel Intercultural Relations Association.

In August, 1984, the Division and the Tropicana Community Service Organization organized a youth symposium to examine several issues of great concern to young people: the family, the community, education, employment and law enforcement. Over 120 young people from the Scarborough area participated in this symposium. The Division was involved in the planning and organizing of this symposium and in preparing a report of its proceedings. The symposium proved to be an excellent opportunity for youth to express their concerns and to dialogue with the agencies and institutions that serve them.

For the past several years, the Peel Intercultural Relations Association (PICRA) has played a major part in promoting racial harmony in the Peel region. The Division provided assistance to PICRA in organizing a conference entitled "Common Denominators in a Multiracial, Multilingual and Multicultural Society". It was held on the eve of the 36th Anniversary of the United Nations Declaration of Human Rights. Many social workers, members of racial and ethnic minorities, politicians and religious leaders attended the function. This conference provided a forum for discussing the role of social service agencies in a multiracial community.

"Black Perspective" is a community-based organization in Regent Park, Toronto. The Division provided assistance to the organization's programs during Black History Month in February, 1985. These programs aimed to promote a positive image of Black artists and their contribution to the community and province.

Northern Ontario

As one example of the Division's efforts to promote a greater understanding of Native peoples among employers and educational institutions and to provide vocational information for Native students, the Division's staff assisted in organizing the Native Cultural Awareness and Career Fair Day in Timmins. Native students from Timmins, Kapuskasing, Hearst, Cochrane and the Gogama region, as well as non-Native students, teachers and administrators attended the event.

The Division also recognizes the valuable contribution of members of the community in the area of human rights. The Division staff in Timmins presented a human rights plaque to a grade 12 Native graduate in recognition of the student's academic performance and involvement in race relations activities.

Mediations

Following are two examples of the mediation of community conflicts and individual disputes which continued to be an integral component of the Division's work during the fiscal year.

The Division received complaints from the Sikh community in Brantford alleging discrimination against Sikhs by the police. The situation was compounded by poor police-Sikh relations in that city. The Division provided assistance to the newly formed Brantford Race Relations Committee and, along with the Brantford City Police, organized a meeting with Sikh community representatives to resolve the dispute.

The complainant, a woman of Chinese origin, alleged that she was subjected to discriminatory treatment by a Toronto Transit Commission Collector who made racially derogatory remarks to her and confiscated her Metro Pass. The incident occurred when the complainant, by mistake, copied the pass number instead of her I.D. Card number on her Metro Pass. The Collector accused her of using her husband's pass despite the fact that the pass had the complainant's name, picture, signature, address and telephone number. The Collector did not allow her to ride the bus.

Subsequently, the complainant contacted the T.T.C. head office and made a complaint. The supervisor who responded to her call defended the Collector's actions and threatened to charge her with fraud.

The complainant felt that her sex and race were the motivating factors for this prejudicial treatment. She contacted the Division for assistance.

The Division contacted the T.T.C. and alerted them to the complainant's concerns and the provisions of the Code. An internal inquiry was conducted and it was determined that the Collector had acted unfairly and improperly. He was informed of this fact, and the complainant received an apology from the T.T.C. She expressed her satisfaction with this outcome.

The Division also deals with complaints alleging the stereotypical portrayal of racial minorities by the media. As an example, a newspaper featured a caricature of a person with slanted eyes, buck teeth, holding grasshoppers and referred to the term "Japs". After receiving the complaint, the Division staff met with newspaper representatives and the paper printed an apology in the next issue.

Community Development

In the Lawrence Heights community of North York, community tensions developed with respect to police-youth relationships, a lack of adequate recreational programs, and youth unemployment. The Division, in response to conflict between the police and youth, investigated the situation and met with the disputing parties. Working closely with various agencies, groups, institutions and community leaders, the Division negotiated a successful resolution of the conflict.

A primary factor contributing to this outcome was the establishment of the locally based Lawrence Heights Progressive Association. It is composed of local minority youth who are now able to negotiate with the police and the Department of Parks and Recreation regarding recreational programs. The creation of local mechanisms of community participation to deal with race relations issues is a chief objective of the Division in its community outreach program, and these initiatives have met with considerable success.

WORKING WITH INSTITUTIONS

During the year, the Division worked with numerous institutions in response to race relations issues, assisting them to implement policies and programs designed to prevent racial discrimination.

Educational Institutions

In 1983, the Race Relations Division established a Consultative Committee on Education. The role of the committee is to advise the Division about race relations issues and problems in educational institutions and to develop the strategies and solutions needed to address them.

In this capacity, the Consultative Committee recommended that two concerns be examined during the fiscal year: 1) the negative impact of streaming and assessment on minority students; and 2) the fact that few boards of education in the province have race relations policies to assist them in serving an increasingly multiracial school community.

Accordingly, the Consultative Committee formed two sub-committees, one to prepare a document outlining race related issues in streaming and assessment along with recommended strategies to deal with them, and the other to prepare a model race relations policy. The work of these sub-committees is well underway and it is expected that the resource material they develop will be distributed to school boards throughout the province during fiscal year 1985/86.

The Division and the Hamilton Board of Education co-sponsored the development of human rights curricula for Grades 9 and 10 English and Grades 11 and 12 Man and Society courses. This resource development project has produced 14 curriculum units to date on such topics as prejudice and stereotyping and their effects on racial minorities. These will be tested as a pilot project in the upcoming academic year before being made available to school boards throughout the province.

The Division commissioned a film from Dr. Ahmed Ijaz, a well-known Toronto education consultant. The film is based on Dr. Ijaz's research into the racial attitudes of elementary school children, and addresses the question of how to effectively teach racial tolerance and acceptance. In March 1985 the Division premiered this film, entitled "Can Racial Attitudes Be Changed?" in Toronto. Many educators and community representatives attended the screening.

The Division continued its ongoing work with specific school boards, assisting them in developing and implementing race relations policies. These boards included Toronto, North York, Scarborough, East York, and the Metropolitan Toronto Separate School Board.

In Windsor, the Division's officer served as adviser to the Windsor Board of Education in the drafting of its Race Relations Policy. The proposed policy has been adopted by the Board. The Division continued to provide assistance to Windsor educational institutions in holding seminars and conferences for students and teachers, with the aim of promoting racial harmony in the school setting.

Similarly, the Division's staff also assisted in the development of the Ottawa Board of Education's Race and Ethnic Relations Policy as well as its implementation plan. The Division, along with the Ministry of Education, the Ottawa chapter of Teachers of English As a Second Language, and local boards of education, organized the first Multicultural/Multiracial Youth Leadership Program to be held in the Ottawa area.

Business & Industry

In fiscal year 1984/85, the Division published a "Workbook on Equal Opportunity in Employment." This workbook, developed in co-operation with the business community, is a practical training manual in which the reader works through a series of quizzes, case studies and scenarios. It explores a number of difficulties that face managers working in a multiracial and multiethnic work environment, and how they can respond to race relations and equal opportunity issues. The Division launched the workbook in June, 1984 with a reception attended by 150 representatives of the business community. Since this time, the book has been distributed widely throughout the province in response to a great demand from employers and schools of business.

The Division's staff in Ottawa participated on a committee composed of representatives of various municipal, federal and community organizations in the area of human rights and race relations. This commmittee is developing a feasibility study on race relations and equal opportunity issues based upon interviews with major private and public sector employers and unions.

In addition, the Division has provided race relations training for a number of employers ranging from half-day to two-day presentations as well as giving speeches and seminars to business associations and individual companies.

Unions

The Division has worked extensively with the Ontario Federation of Labour, assisting the Federation with its continuing anti-racism campaign. The Division assisted in the design, planning and implementation of six regional workshops held by the OFL to raise awareness of and develop skills in race relations for union members. Following these regional workshops, a conference was held in Toronto to review and consolidate the initiatives the OFL has taken in its anti-racism campaign and to plan future initiatives. The Division, in co-operation with OFL staff, has also developed a case studies manual on race relations in the workplace.

Media

An initiative taken by the Division in this sector during the fiscal year has been to develop a formal liaison with the Ontario Press Council. Members of the Commission and Division met with the Council to discuss complaints about racist or racially insensitive material in the press, and to develop a procedure whereby the Division may refer complaints about this type of material to the Council.

In Ottawa, the Division, along with the National Capital Alliance on Race Relations, the Human Rights Centre, and the Canada Film Institute co-sponsored a highly successful film festival on discrimination, racism and efforts to combat them.

The Criminal Justice System

The Division has maintained its liaison with the Metropolitan Toronto Police Force and referred relevant cases and community disputes to its Ethnic Relations Squad. The Division also continued its participation on the Metro Council on Race Relations and Policing.

Police training is an integral part of race relations work. During the fiscal year, the Division's staff co-ordinated and conducted ten workshops for all uniformed officers of the Thunder Bay Police Force. These workshops dealt with the dynamics of prejudice, stereotyping and discrimination, the provisions of the Human Rights Code and policing in a multiracial society. Case studies and role plays were used to enhance the workshop discussions.

The Division also assisted Confederation College in Thunder Bay to prepare resource materials on visible minority-police relations, which have been incorporated into the curriculum of the College's Law and Security program. In Metro Toronto, the Division is also developing resource materials to be used in police race relations training.

The Cabinet Committee on Race Relations

The Division continued to serve on the Staff Working Group established by the Cabinet Committee on Race Relations. The Race Relations Commissioner and staff assist the Cabinet Committee with respect to race relations issues as they relate to the responsibilities and programs of the Government of Ontario.

In 1984, the Division participated on various task forces and work groups formed by the Cabinet Committee in areas such as advertising and communications, education, publicly assisted housing, employment issues in the public service, youth employment, and the needs of visible minority women.

RESEARCH

Research on race relations issues is an integral part of the Division's work. It provides a necessary tool in formulating the Division's policy initiatives and provides valuable information for program implementation.

The Division has compiled a bibliography of race relations documents in the Ministry of Labour library and is preparing a paper on the changing race relations issues and climate in Ontario, and the policy and program initiatives undertaken in response to these issues.

In response to requests from the community, the Division offers research assistance. For example, when the Scarborough Mayor's Task Force on Multiculturalism and Race Relations approached the Division, research assistance and resource materials were provided.

Based on complaints by a number of health care workers of racial minority background, the Division, through an independent research consultant, launched a research project on the employment of visible minorities in the health care industry.

DISCRIMINATION BECAUSE OF HANDICAP

Fiscal year 1984/85 completes the second successful full year of implementation of the provisions of the Code relating to handicap. Statistics on complaints received over the year indicate that the volume of complaints alleging discrimination because of handicap continues to exceed the number of complaints on any other single ground.

The Code provides the right to freedom from discrimination on the ground of handicap in the areas of services, goods and facilities, accommodation, contracts, employment and membership in vocational associations. Harassment because of handicap is also prohibited in employment and accommodation.

Handicap is defined as any degree of physical disability, mental retardation or impairment, learning disability or a mental disorder. In addition, a person may not be discriminated against because he or she has received Workers' Compensation. Lack of appropriate means of access does not, by itself, constitute discrimination contrary to the Code. Also, it is not a contravention of the Code to deny a person a job, service or accommodation if the only reason is that the individual is incapable of performing the essential duties or requirements of a job, or is incapable of fulfilling the essential requirements of a service or accommodation.

Questions about illnesses, injuries or medical histories, in the past or in the present, may not be asked on an application form or at any stage prior to a personal interview. Employers may raise questions regarding the extent of an applicant's handicap as it affects his or her ability to do the job, only during a personal interview.

Similarly, an employer may require an applicant to undergo a job-related medical examination either during or after the interview process, but not before, and such medicals should be related to job performance and apply equally to all applicants. In addition, the results of medical examinations should be used only to determine the person's ability to perform the essential duties of the employment.

These provisions address common concerns that persons with disabilities have been denied employment opportunities because of traditional prejudices against them, together with lack of knowledge of their capabilities and potential. Ignorance about the abilities and aptitudes of persons with handicaps may deter employers from granting them a personal interview, and it has been the Commission's experience that qualified applicants with handicaps are being excluded from jobs without a determination being made as to whether the individual is able to perform the essential job functions.

The emphasis of Ontario human rights legislation has been on voluntary compliance with a conciliatory approach. Cases of discrimination because of handicap are handled by the regional staff, who receive specialist guidance through an administrative arrangement established because of the unique and complex features of complaints based on handicap. Professional expertise is often necessary to assist the Commission in making decisions as to what constitute the essential duties of a job on one hand, and the individual's ability to perform them, on the other. Other complex cases requiring expertise include those involving novel tests of jurisdiction, and complaints in which the validity of employment tests and other screening procedures are at issue.

ACTIVITIES 1984/85

Conciliation and Compliance

The Commission staff continue to assist employers in their understanding of the provisions of the Code by reviewing their pre-employment screening measures, such as advertising, application form review and pre-employment medicals. In addition, employers are assisted in developing appropriate measures to determine the essential duties and requirements of specific jobs as these relate to the individual's ability to perform them. Educating employers about recruitment strategies that will inform handicapped individuals and their representative organizations of employment opportunities is another important responsibility.

Through direct negotiations with public and private associations and agencies, as well as individual respondents, Commissioners and staff are also engaged in ensuring equal treatment in the areas of services, accommodation, and contracts.

Complaints of Discrimination

During the period of April 1, 1984 to March 31, 1985, the Commission received 438 formal complaints. Over this period, 193 were settled, 37 were dismissed by the Commission either due to lack of jurisdiction or lack of evidence to substantiate the complaint, and 44 were withdrawn by complainants.

Of the formal complaints filed, 388 have been on the ground of physical handicap and 50 have been on the ground of mental handicap. The types of handicaps are shown in Table 5.

The Commission staff continue to make progress in such major issues as physical standards established for firefighters and police officers, such as visual acuity, colour blindness, obesity, diabetes and allergies to ensure that the employer's selection criteria and screening procedures are valid and job-related.

With regard to visual acuity and colour blindness, the staff have worked closely with the Canadian Ophthalmologists' Association, Provincial Fire Marshalls, and Chiefs of Provincial Police Departments to establish valid and reliable criteria and testing procedures for standardizing the selection process in the recruitment of fire fighters and police officers.

The Commission continues to receive complaints from handicapped individuals against insurance companies who have refused them coverage because they are believed to be at a greater risk than non-handicapped applicants. Many complaints have been successfully resolved as a result of enforcing the provisions of the Code which require that: (1) all assessments be made on individual merit, and (2) valid and reliable evidence be provided by the respondent to demonstrate that the exclusion is reasonable and bona fide.

During the fiscal year, consultations have been held with occupational therapists, physicians, vocational rehabilitation counsellors, and other medical specialists about accommodation, aids and adaptations and to explore areas such as Physical Demands Analysis, Functional Capacities Assessments and medical reviews. These techniques attempt to determine the job performance ability and potential of individual complainants. Contacts have been established and maintained with agencies such as the March of Dimes, the Workers' Compensation Board, Vocational Rehabilitation Services of the Ministry of Community and Social Services and the Ministry of Education.

On April 30, 1984, the first board of inquiry decision on the ground of handicap was rendered: Cindy Cameron and Nel-Gor Nursing Home and Merlene Nelson. Ms. Cameron alleged denial of employment as a nurse's aide in the respondent's nursing home because of a congenital malformation of her left hand, which resulted in three fingers being shorter than normal. The board found that in order for a respondent to prove that no unlawful discrimination has occurred, it must be established on an objective basis that the complainant is incapable of performing or fulfilling the essential duties or requirements of the job because of a handicap. Respondents cannot rely upon mere "impressionistic" evidence.

In Ms. Cameron's case, the evidence clearly established, in the view of the board, that she was capable of performing the essential duties or requirements of the nurse's aide position. The board accepted the evidence of an occupational therapist who performed an analysis of the physical demands of the job and compared it with the functional capacities of Ms. Cameron to demonstrate her ability to perform the job.

The complainant was awarded $4,551 in compensation for lost wages, general damages and interest. The respondent was ordered to offer the complainant the next available nurse's aide position. The respondent has filed notice of appeal from the decision and order in the Supreme Court of Ontario, Divisional Court.

Public Education

The Commission continues to provide an educational and consultative service on a province-wide basis for business, industry, unions, vocational associations, professional associations, health care professionals, educational systems, inter- and intra-governmental agencies, voluntary groups and religious associations.

Further, members of staff conduct seminars on the Code's provisions relating to handicap for supervisors and managers with the Ministry of Community and Social Services, the Workers' Compensation Board, and other ministries, agencies and organizations.

Among these agencies and organizations are the Brantford, Ajax, Pickering and Whitby Associations for the Mentally Retarded, and the Canadian Mental Health Association.

Inter-provincial consultations have been held with other human rights commissions such as those of Alberta, Saskatchewan and Newfoundland.

A primary goal of public education is to establish ongoing working relationships with those groups and communities that the Code is designed to serve. For example, such a relationship has been established with the Canadian Diabetic Association - Ontario Division. Through consultation and information exchange, the following benefits are achieved:

- Persons with diabetes in Ontario are fully informed of their rights with respect to access to essential services, employment (including remaining in the job following diagnosis), and the regulations and policies affecting such matters as driver's licences and insurance.

- Those with diabetes gain an understanding of the role of the Ontario Human Rights Commission and how to file a complaint.

- Commission staff are informed about diabetes and its impact on life style and employment.

- Commission staff are provided with names of expert witnesses on diabetes for the purposes of testifying before boards of inquiry or providing evidence related to complaints.

In order to reach a large number of employers in the province, Commission staff regularly participate in seminars arranged through the Personnel Association of Ontario.

The Commission has extended access to its services to those who are hearing impaired by installing a TDD (telecommunication device for people who are deaf). The telephone number is (416) 965-6871.

To further increase the awareness of the rights of handicapped persons, the Commission's staff conducted workshops and seminars throughout public and separate school board systems, colleges and universities.

Staff Training and Development

Training sessions for the Commission's staff on the legislation pertaining to handicap are conducted on a regular basis at regional staff meetings and workshops. In-house seminars and consultations for staff are also conducted by organizations and agencies dealing with issues relating to handicap.

The Commission continues to develop and acquire resource information about discrimination against disabled persons. These materials deal with such subjects as existing legislation that protects the rights of the handicapped, and related legal interpretations and case law. This information allows staff to keep abreast of new developments in North America and overseas.

Program Development and Research

Current activities in the areas of program development and research include a study on pre-employment testing. This report is an extensive scrutiny of pre-employment testing and its validity and reliability in relation to human rights legislation. The report commences with a historical overview of testing methods and examines Canadian and American legislation and case law relating to the impact of testing requirements on job applicants with handicaps. It also deals with the area of constructive discrimination as prohibited in the Ontario Code. It outlines and analyses specific testing procedures, using as examples particular corporations and their methods. These corporations have been extremely co-operative in providing us with information, and in granting interviews with their directors of personnel and medical departments.

The studies on reasonable accommodation of the handicapped and discrimination on the basis of disability in insurance and benefit plans which were conducted during 1983/84 will be available to the public in 1985.

The study on reasonable accommodation provides an analysis of how the concept of reasonable accommodation is defined and applied in several jurisdictions in Canada and the United States. It examines the extent of the employer's duty, how the courts and boards of inquiry have interpreted that duty, the relevance and usefulness to the Ontario Commission of any guidelines that have been established in this area, how "undue hardship" to the respondent is interpreted and applied and, finally, the relevance and practical implications of any existing accessibility standards.

Discrimination on the basis of disability in insurance and benefit plans reviews sections 21 and 24 of the Code and evaluates these sections in comparison with similar provisions in other jurisdictions. It examines the process used by the insurance industry to identify persons who are believed to represent increased risks because of their handicap. A basic premise of human rights legislation is that each individual has the right to be evaluated and subsequently treated on the basis of his or her own merits. However, the insurance industry has traditionally assessed the insurability of individuals on the basis of group characteristics.

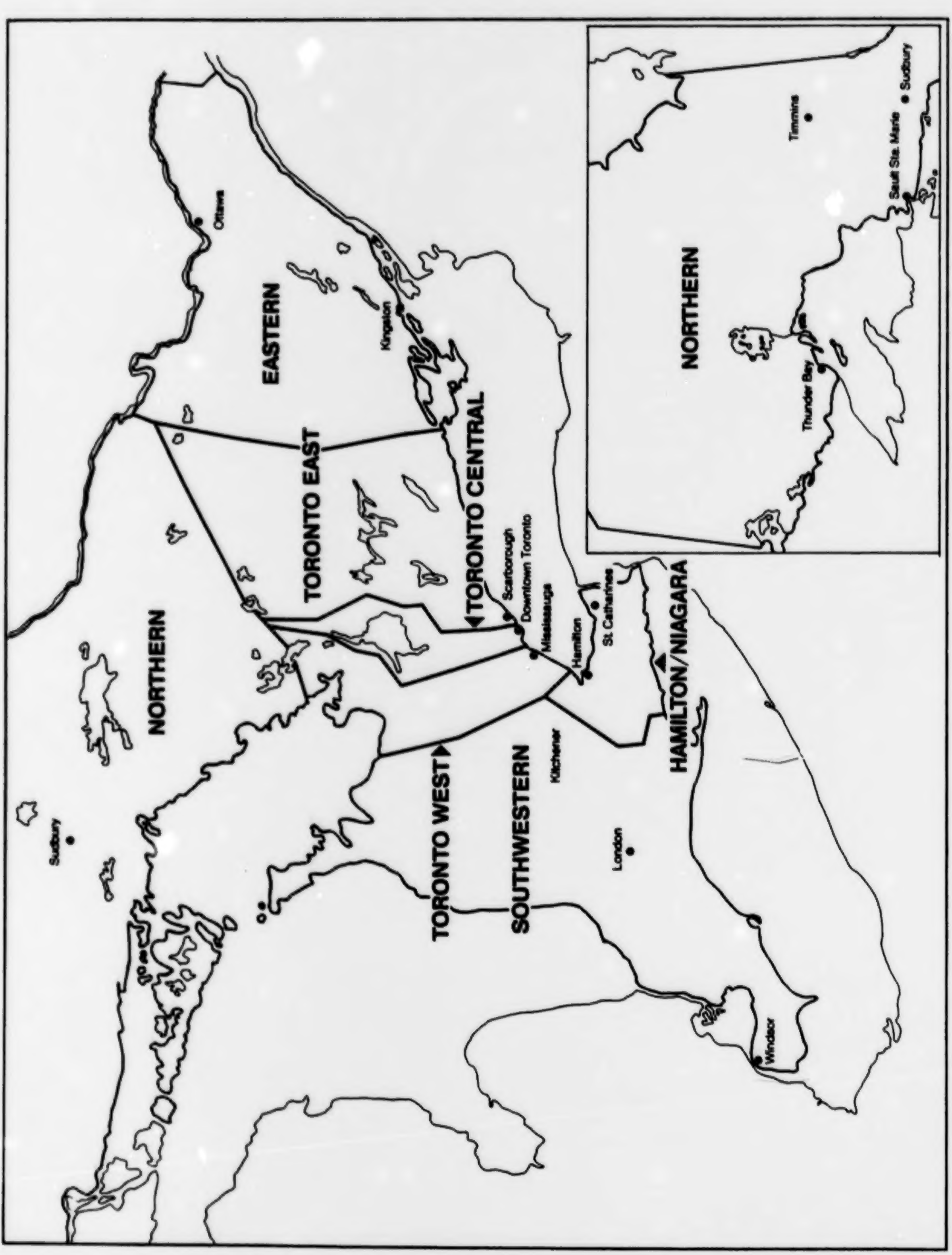
Group Homes

Due to a growing trend toward de-institutionalization, group homes for ex-offenders, ex-psychiatric patients, and physically and mentally disabled persons have been established in the community in recent years. This is a new concept and has met with a great deal of resistance in the community. The Commission is receiving a growing number of complaints of harassment in accommodation from the residents and members of staff of group homes.

These complaints reflect considerable concern on the part of group home residents and their families, who feel threatened by the negative sentiments expressed by residents' and ratepayers' associations. Accordingly, the Commission is consulting with officials of the ministries and agencies responsible for the establishment of group homes, in efforts to develop a co-ordinated educational response to community concerns about these facilities. Thus, it is hoped to address the negative stereotypes and myths about the effects of group homes on residential neighbourhoods.

International Responsibilities

1983-1992 has been proclaimed the Decade of Disabled Persons by the United Nations. Following a federal-provincial-territorial ministerial conference on human rights in September, 1983, ministers expressed their support for the United Nations Decade of Disabled Persons, and instructed the Federal-Provincial-Territorial Continuing Committee of Officials Responsible for Human Rights to engage in a consultation process for the development of a plan of action. A working committee established for this purpose includes representation of the Ontario Human Rights Commission. The committee has submitted its report and recommended that a plan of action be created and implemented within each jurisdiction in consultation with community organizations, agencies and sectors with an interest in promoting the rights of persons with handicaps.


NORTHERN
Sudbury
TORONTO EAST
EASTERN
Ottawa
Kingston
TORONTO CENTRAL
Scarborough
Downtown Toronto
Mississauga
Hamilton
St Catharines
HAMILTON/NIAGARA
TORONTO WEST
SOUTHWESTERN
Kitchener
London
Windsor
NORTHERN
Timmins
Thunder Bay
Sault Ste. Marie
Sudbury

REGIONAL ACTIVITIES

1984/85

The Commission's programs are carried out in seven regions and 16 district offices, as indicated on the map on the facing page.

In 1984, the Conciliation and Compliance Division and Race Relations Division were restructured and reorganized to respond more effectively to the large increase in complaints, community problems, inquiries and referrals resulting from the new provisions of the Code. The new organizational structure of the Race Relations Division is described on page 19.

The Conciliation and Compliance Division has been reorganized to provide more effective services to two major areas of the province; two Directors now have the responsibility of supervising program delivery in all regions. One Director supervises the Eastern, Hamilton-Niagara, Northern and Southwestern Regions, as well as the Unit for the Handicapped and the other is responsible for program delivery in the three Metropolitan Toronto regions.

An important initiative for fiscal year 1984/85 was to respond more effectively to the issues relating to discrimination that are increasingly being raised by the racial, ethnic and immigrant groups and organizations at the local level in the Metropolitan Toronto area.

Statistical tables reflecting complaints received during the fiscal year in each of the seven regions may be found on page 69.

Toronto Central Region

This region was created in 1981, when the Commission's caseload had expanded to a point where complaints in the Metropolitan Toronto area could no longer be administratively dealt with by the two existing regions, Toronto East and Toronto West. The boundaries of Toronto Central Region extend from the downtown core, northward to Barrie and Burk's Falls.

In fiscal year 1984/85, the region experienced an increase in complaints alleging discrimination because of race and colour relative to those on other grounds. The number of complaints based on these grounds is second only to those based on handicap.

The Commission has witnessed a greater awareness of and interest in human rights protection among Toronto's racial, ethnic and community organizations, and there has been an increase in complaints from members of racial and ethnic groups which traditionally did not seek to file complaints under the Code. There has, for example, been a significant increase in complaints from South East Asian communities.

Another interesting aspect of the region's caseload over the year was a large number of complaints alleging age discrimination, resulting from redundancies, layoffs, and early retirement. These kinds of complaints have posed interesting legal questions for the Commission. Of note is the occupational status of these complainants. No longer are the majority of complainants alleging age discrimination blue collar or factory workers; they include many middle-management personnel who are forced out of their positions by companies caught in the economic squeeze. Traditionally, many of these complainants would have launched wrongful dismissal suits. However, they have begun filing complaints with the Commission in recent years.

In addition to the region's public education program, staff have developed and maintained co-operative working relationships with employment and labour organizations, educational institutions and social service agencies in the Toronto area. As an example, a member of the region's staff provides advice and assistance to the Metro Children's Aid Society, which established a multicultural task force in 1978 to examine the agency's policies and programs in light of the racial and ethnic diversity of Toronto's population. The report of the task force was accepted by the Board of Directors in 1983, and the implementation of its recommendations began shortly thereafter.

Toronto East Region

The regional headquarters of the Toronto East Region were moved from downtown Toronto to Scarborough in 1982, thus ensuring that the Commission's services are readily accessible to the community. The region includes Toronto's eastern suburbs, and extends northward to Algonquin Park and eastward to Trenton.

The region accounted for 21 per cent of the total complaints received by the Commission this fiscal year, or 341. Of these, 27 per cent related to handicap, 19 per cent to race, 15 per cent to sex, 9 per cent to age and the remaining 29 per cent were distributed among all the other grounds. These percentages are similar to the ones experienced province-wide, excepting the figure for race complaints, which was lower than both the provincial and Metro averages.

In the three-year period since the regional office opened in Scarborough, the region has witnessed a large increase in complaints from towns and cities beyond the Metropolitan Toronto area. This is primarily due to a comprehensive public education and outreach program directed at such centers as Peterborough, Oshawa, Lindsay and Bobcaygeon.

The region's staff conducted and participated in a number of events in Peterborough, commemorating Human Rights Day on December 10, 1984. The Mayor of Peterborough and civic officials took a great interest in celebrating the anniversary of the United Nations Declaration of Human Rights, and the events received media coverage.

The Commission also conducted a series of seminars with senior and line managers in the Municipality of Peterborough during the fiscal year, and regional staff are designing a similar event for all levels of management of a large oil Company.

Toronto West Region

The headquarters of this region were also relocated in 1982, to the City of Mississauga. Toronto West includes Peel Region and part of Halton Region, extending to Oakville to the south and west. The regional boundary extends northward to the Nottawasaga Bay area.

The region received 16 per cent (263) of the total cases received by the Commission this fiscal year. The largest number of cases were on the ground of race: 29 per cent, a percentage markedly higher than those for the province and Metro. This reflects the fact that racial minorities are heavily represented in the manufacturing plants located throughout the region.

In the summer of 1984, regional staff conducted an extensive public educational program for employers in this heavily industrialized area of the province. Staff assisted many employees in bringing their employment practices in line with the provisions of the new Code. Outreach initiatives were also conducted with Boards of Education and Community Colleges in the region.

Eastern Region

The Commission's Eastern Region covers the geographical area east of Trenton, extending northwards from Lake Ontario and the St. Lawrence River to the Quebec border. Its headquarters are in Ottawa and a district office is located in Kingston.

One hundred and twenty-seven complaints, or eight per cent of the Commission's total, were received in this region during fiscal year 1984/85. Handicap and sex were the most frequently cited grounds in complaints under the Code, with 33 per cent and 25 per cent of cases, respectively.

Because Ottawa is the capital of Canada, many professional associations and accreditation organizations have established their head offices in the city. Therefore, issues relating to the licensing and certification of professionals are frequently brought to the Eastern Region.

At issue are the requirements for licensing or certification of professionals who received their training abroad. In many instances, professional organizations require foreign-trained professionals seemingly to meet more stringent criteria than applicants who received their training in Canada.

In past years, the Commission has received a number of complaints from professionals who allege that the apparently differential licensing requirements have an adverse impact on the basis of place of origin, in that the place of origin is frequently the same as the country of training. Therefore, the standards established by professional organizations may result in the exclusion of foreign-born professionals.

These complaints are currently being examined under sections 4, 5 and 10 of the Code. A prima facie case of discrimination is established if it can be shown that the requirements in question have a discriminatory effect. If this is the case, the respondent organization must demonstrate that the requirement is nonetheless reasonable and bona fide in the circumstances. These complaints are currently under review by the Commission.

The region's programs in public education, consultations and race relations were particularly active during the fiscal year. Outreach initiatives have encouraged community and social workers to take a more active role in assisting their clients to file and pursue complaints under the Code, particularly complaints alleging physical or mental handicap.

As more employers and institutions are incorporating equal opportunity employment policies and affirmative action programs, the Commission's staff is requested more and more frequently to review application forms, deliver information sessions, provide educational seminars, consult with personnel managers and advise community groups on the provisions of the Code.

Northern Region

This region is headquartered in Sudbury, and has four district offices in Kenora, Thunder Bay, Sault Ste. Marie and Timmins.

The Northern Region constitutes 85 per cent of the province's geographical area, and ten per cent of its population. For this reason, the regional staff, as well as Commissioners, have continued to expand the region's outreach program to those communities that do not have immediate access to the services provided by the region's five district offices. As well, toll-free telephone numbers have been provided for all residents of northern Ontario.

Members of the staff hold frequent consultations and educational undertakings with Native organizations and communities, and the Commission's brochures detailing information about complaint procedures and the provisions of the Code have been translated into Cree and Ojibway.

The Commission continues to consult with law enforcement, social services and health care delivery agencies serving Natives in order to improve communication between these agencies and Native communities. The primary objective of these initiatives is to increase the understanding of the social, cultural and economic environment of Native persons among agency representatives so that they can better respond to the needs of the persons and groups whom they serve.

The region saw an increase of 36 per cent in the number of complaints received during the fiscal year, with the majority alleging discrimination in employment because of handicap. This increase may be attributable to the heightened awareness of the public with respect to their rights under the Code, and to a decrease in employment opportunities within the resource-based economy that predominates in northern Ontario.

The staff have also conducted public education programs for the business community in all aspects of the recruitment, hiring and employment process. Several branches of the Chamber of Commerce have sponsored seminars on equal opportunity, and invited the regional staff to participate in these sessions. The staff also conducted joint seminars with the Federal Business Development Bank, in the areas of recruitment and selection, during the fiscal year.

As part of the region's working relationship with law enforcement agencies, the staff assisted the Ontario Provincial Police detachments in Sault Ste. Marie, Thunder Bay and Kenora in delivering their in-service training programs in human rights and police-minority relations.

Southwestern Ontario Region

Fiscal year 1984/85 saw major changes for the Southwestern Region. At the beginning of the year, the region was the second largest in the province in terms of caseload: 186 cases were in process, which increased by 59 per cent to 295 at the end of December 1984.

Halfway through the fiscal year, the Southwestern Region was divided into two regions to better cope with this dramatic increase in caseload. The regional boundaries now extend from Simcoe northward to Brantford, Cambridge, Guelph and Owen Sound. The region is headquartered in London and has district offices in Kitchener and Windsor. Despite the changes and the increasing caseload, service delivery in the region was improved as the Southwestern staff established a more regular presence in the Brantford and Sarnia areas, where an increasing number of human rights issues have been brought to the Commission.

The Southwestern Region, together with Hamilton-Niagara, received 398 cases or 25 per cent of the total cases received by the Commission in 1984/85, the highest percentage of all regions.

The grounds most frequently cited in complaints were handicap, with 23 per cent of the total; race, with 19 per cent; sex, with 16 per cent; sexual harassment and age, with 11 per cent each, and the other grounds with lesser yet significant numbers.

In November 1984, the Commissioners held a Community Consultation in London with a broad cross-section of interested members of communities from across the region. The meeting was attended by representatives of community organizations, agencies, unions, educators and representatives of business and industry, and these efforts resulted in a large and enthusiastic group of participants. The result was a lively dialogue and a fruitful exchange of ideas about the Commission's role and future direction.

Improving employment opportunities and the working environment for women through affirmative action was the focus of much of the region's work this year. In Windsor, for example, considerable time was spent consulting with the local Board of Education and the City, encouraging these institutions to increase the effectiveness of their affirmative action program. One case settlement with a major auto parts manufacturer included a special program for women which provided for modifications to the company's application, recruitment and medical screening procedures. This resulted in the hiring of several women who had previously been considered physically unsuitable for such positions. Windsor was also the venue of a board of inquiry against a major hospital (Windsor Western) which was alleged to have maintained separate male-female job classifications for housekeeping positions. This hearing had not concluded at the time of writing this report.

The increase in complaints alleging discrimination in employment was mainly attributed to the recession, which caused companies to reduce the size of their work forces through layoffs and restricted recruiting. However, the Commission discovered in the course of investigations that many complaints based on race and sex were the result of insensitivity on the employer's part or misunderstanding on the complainant's part regarding job elimination or layoff. Some complaints were generated by inaccuracies or a lack of clarity in letters notifying employees of layoff. On the other hand, many complaints alleging age discrimination were found to be substantiated in that employers had intentionally used age as a criterion for downsizing, with a significant negative impact on older workers. The Commmission settled many of these complaints with monetary compensation and job restoration as remedies for these situations.

In the area of goods, services, and facilities, a successful board of inquiry was held against the Anchor & Wheel Inn on Pelee Island. Two black women who had been refused use of the Inn's dining facilities were awarded $300 each in damages. This figure represented a substantial increase in the amount of financial compensation traditionally awarded in such cases. As well, the owner of the Inn was ordered to comply with the Code in future and to place newspaper advertisements indicating that his policies are non-discriminatory.

Major public education initiatives on the provisions of the Code this year included a two and one-half day seminar with 160 administrators from the London Board of Education, a series of seminars for all employees at Johnson and Johnson in Guelph and professional development for secondary school teachers in Haldimand-Norfolk County. Consultation continued with major employers, educational institutions and unions to develop policies on equal employment opportunity, sexual harassment and race relations.

The Commission's staff also addressed the International Organization of Personnel in Security, the Farm Safety Association, the Stratford Personnel Association and the Certified Public Accountants Association as well as many professional meetings, secondary and post-secondary classes, unions and social agencies.

Hamilton-Niagara Region

This newest region was created in November, 1984, with its headquarters in Hamilton. It covers the Golden Horseshoe and Greater Hamilton areas, and has a district office in St. Catharines. The total number of cases in process at March 31, 1985 was 174.

The caseload has been steadily increasing in the Hamilton and Niagara areas over the past several years. Although the predominant grounds of discrimination are race or colour and sex, including sexual harassment, the region has seen a significant number of complaints alleging discrimination in accommodation on the ground of marital status.

The region has dealt with a number of complaints in which the outcome has had broad implications for members of minority communities. In November, 1984 seven East Indian taxi drivers alleged that their employer discriminated against them in accordance with a company policy to abide by customer requests not to send an East Indian driver. The Commission initiated complaints against two additional companies alleging that they make racially selective assignments of drivers upon receiving disciminatory requests. Conciliation negotiations in these complaints were under way at the time of writing this report.

Regional staff in Hamilton and St. Catharines have established new contacts with employers, business, industry, educational institutions, labour organizations and community groups. Several public educational projects were conducted during the year, involving a number of major industrial corporations such as Texaco Refinery and WABCO.

EXAMPLES OF

COMPLAINTS OF DISCRIMINATION

1984/85

EMPLOYMENT

Race, Colour, Nationality, Ancestry, Place of Origin, Ethnic Origin

The complainant, who is of East Indian origin, alleged that her supervisor required her to serve a probationary period two months longer than the customary period, did not provide adequate orientation and training, and eventually dismissed her without explanation or warning. She further alleged that four of her co-workers made racially derogatory comments and insults in her presence, and that her supervisor and the director of personnel took no corrective action when these comments were brought to their attention.

Her complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of race, colour and ethnic origin. She also alleged denial of the right to freedom from racial harassment in the workplace.

A co-worker also filed a complaint alleging that she was disciplined, and later dismissed, because she had befriended the complainant and supported her when she informed management of the offensive remarks. This complainant alleged discrimination because of a relationship with a person identified by a prohibited ground of discrimination.

During an extended investigation of these complaints, it was established that the work performance of both complainants had been assessed as competent. Interviews with employees in the complainants' department indicated a tendency for co-workers to avoid communicating with the two women. Two witnesses stated that they had heard co-workers making racially derogatory comments. One of them, who is of a mixed racial background, said that because she "does not look black", co-workers often make racially offensive remarks in her presence. The second complainant informed the Commission that she had been instructed not to seek assistance or information from the first complainant, and several co-workers stated that this was common knowledge among employees.

These facts supported the allegations of the complainants.

In conciliation, the parties agreed to the following terms of settlement:

- Both complainants had obtained suitable employment elsewhere, and therefore did not request reinstatement. The respondent compensated the first complainant in the amount of $3,000 for earnings lost because of discrimination and for insult to her dignity. The second complainant received $1,200 in compensation for earnings lost and damages for mental anguish,

- both complainants were provided with letters of apology and written references.

*****

The complainant, a black woman originally from Trinidad, had worked as a part-time nurse's aide in the respondent hospital for one year. She alleged that her supervisor reduced her hours after informing her that one of the white nurses had reported that her work performance was unsatisfactory . Her complaint also stated that the nurse in question had made derogatory remarks about Blacks in her presence.

The complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of race, colour, place of origin, ethnic origin and ancestry.

During the investigation, the Commission examined personnel records which indicated that the complainant had had favourable performance appraisals. Records also showed that the complainant's hours were reduced more than those of other employees, including ones with less seniority. Other black nurse's aides were interviewed, and they stated that they had been aware that the white nurse had made racially offensive remarks. They believed that she held prejudiced attitudes towards blacks. An analysis of the racial composition of the workforce revealed that the registered nurses were primarily white, and the nurse's aides predominantly black. All of these factors supported the allegations.

In conciliation, the parties agreed to the following terms of settlement:

- All part-time nurse's aides will be treated the same with respect to shift scheduling and the number of shifts assigned per week;
- the white nurse received a letter of reprimand concerning the derogatory remarks, and a warning from the hospital administrator;
- the complainant was compensated in the amount of $700 for lost earnings due to the reduced hours and $500 as damages for insult to her dignity;
- the respondent sent letters to the complainant and Commission, assuring them of its non-discriminatory policies.

*****

The complainant, a man of East Indian origin who was a dishwasher in a large hotel, alleged that he had been subjected to discriminatory terms and conditions of employment in having his hours reduced and in later being laid off while other employees with less seniority were kept on. His complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of race, colour, ethnic origin, ancestry and place of origin.

The respondent, upon receipt of the complaint, requested the Commission to refuse to deal with it under section 33 of the Code. Under this section, the Commission may decide not to deal with a complaint if it is not within its jurisdiction; is trivial, frivolous, vexatious or made in bad faith; the facts on which the complaint is based occurred more than six months before the complaint was filed; or there is a procedure under another Act which is more appropriate in the circumstances.

Following a review of the complaint and the respondent's submission, the Commission decided to refuse to deal with the complaint. Both parties were provided with the following reasons in writing:

- The matters complained of may be remedied through the grievance procedure provided under the collective agreement between the employer and union;
- the complaint contained several inaccuracies. The layoff notice had been given to the complainant in error, and he had, in fact, not been laid off at any time. The reduction in the complainant's hours was due to a decline in business, and no employee with less seniority was assigned more hours than the complainant. The Commission was of the view, therefore, that the complaint was frivolous, vexatious and made in bad faith.

*****

The complainant, a male of East Indian origin, alleged that he had applied for a position with the respondent company, in reply to a newspaper advertisement. He was interviewed the following day; however, the personnel manager did not seem interested in his previous related experience or in how long he had worked for his former employer. Several days later, he learned that the company had hired several new employees and was still advertising. When he then inquired about available positions, he was told that all new employees had the required experience. However, the complainant alleged that a friend at the company had informed him that the recruits were receiving training in their new posts.

The complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of race, colour, ethnic origin and place of origin.

During the fact finding conference, the respondent supplied company records indicating that 41 new employees were hired during the time in which the complainant had applied. There were no members of visible minorities among them, or among the company's workforce of 150. The respondent explained that the number of visible minorities in the community was very small.

During conciliation discussions, the respondent agreed to hire the complainant in the position for which he applied within the next two-month period.

*****

The complainant, a black Canadian, alleged that he was treated differently from other workers following his employment as a security officer for a large manufacturing company. His complaint alleged that he was given less training than other officers, was harassed by his co-workers and supervisor, and eventually dismissed because of race and colour.

During the investigation, supervisory employees stated that the complainant had been released because of negligence in carrying out his duties. Records revealed several reports that the complainant had not followed the company's security procedures. Personnel documentation also revealed that he had received more training than other new employees, in that he had been placed on a refresher course shortly after completing basic orientation and training. Interviews with his co-workers indicated that the complainant was unwilling to accept constructive advice, and his work performance did not improve over the four-month period of his employment. These factors indicated that the allegations could not be supported.

The case was dismissed by the Commission for the following reasons:

- The evidence indicated that the complainant's employment was terminated because of his negligence in the execution of his duties and his lack of understanding of the security aspects of his job,

- members of visible minorities who were interviewed stated that they had not received discriminatory or unfair treatment with respect to orientation or training. The complainant participated in the training program as well as on-the-job and refresher courses during his employment,

- there was no evidence to indicate that the complainant was subjected to differential treatment on the basis of race or colour.

*****

The complainant, a woman originally from Korea, began her employment in the respondent manufacturing plant in 1969. She alleged that she had attempted for several years to transfer to lighter jobs in the company and that her seniority entitled her to train for such openings. She stated that other female employees in the same position with less seniority received training and promotional opportunities which she was denied. Following an injury sustained while at work, the complainant asked for light work on a job rotation or transfer basis, but was refused.

Her complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of race, colour, ancestry, place or origin and ethnic origin.

During the investigation, the Commission examined personnel records, which established that the complainant was treated differently in the terms and conditions of her employment, particularly in the area of job assignment.

The evidence indicated that the complainant was the second most senior employee in her category, and several employees with less seniority had received easier and less monotonous work assignments. Company records showed that her work performance had been very good. The investigation substantiated the allegations.

In conciliation, the parties agreed to the following terms of settlement:

- The respondent would regularly post a schedule of job assignments in the complainant's category. The schedule would be reviewed every six months to ensure that each employee, including the complainant, receives an equal amount of light work,
- the respondent would provide the Commission with written assurances of its non-discriminatory policies.

*****

A man of Polish origin alleged that he had begun his employment as a draftsman with the company in 1976. His complaint alleged that he had enjoyed an excellent working relationship with his superiors during the first four years of his service. However, a merger then took place and a new supervisor was assigned to the complainant's department. The complainant stated that many of his previous duties and assignments were removed and given to co-workers, and he was given duties usually performed by junior drafters. He was given no explanation for these events. Four members of the complainant's department were laid off, and each was of Eastern European origin.

The complainant alleged that his supervisor eventually terminated his services, on the ground that he was not satisfied with his work performance. The complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of ethnic origin, ancestry and place of origin.

During the investigation, the Commission interviewed members of management and the complainant's co-workers, most of whom stated that he had been an able and competent employee. Witnesses also confirmed that the new supervisor was prejudiced towards persons of Eastern European origin. The evidence therefore supported the allegations of discrimination.

During conciliation, the complainant stated that he did not wish to return to the company because he had found a suitable position elsewhere. The parties therefore agreed that the respondent would compensate the complainant in the amount of $5,500 in compensation for earnings lost because of discrimination.

*****

Sex, Sexual Harassment

The 18 female complainants had been employed as factory workers in the respondent company. The plant closed, and they alleged that they had been told that all employees would be considered for employment in another plant owned by the respondent. Shortly thereafter, the complainants were informed that the available positions were not suitable for women, and they learned that these jobs were filled by male employees with less seniority. Their complaints alleged denial of the right to equal treatment with respect to employment without discrimination on the basis of sex.

During the investigation, a representative of the respondent stated that although all employees were informed about the company's policy to give preference to current employees, female employees were not considered because of the heavy nature of the work at the other plant. Moreover, the respondent stated that the complainants, as well as several male employees who were not transferred, did not meet the company's standards regarding attendance and work record.

An examination of company records revealed that a number of males who were transferred had poorer attendance and work performance records than several of the female complainants. In addition, union representatives claimed that senior company officials had voiced a preference for males in the other plant. At the time of the investigation, one woman was performing the job in question and she informed the Commission that she could perform all of the required duties except for one minor aspect of the job involving heavy lifting.

The evidence lent support to the complainants' allegations.

These factors were discussed during conciliation negotiations, and the parties agreed to settle the complaints as follows:

- Each complainant received monetary compensation in the amount of $2,000 for earnings lost because of discrimination and insult to their dignity,
- the complainants were offered positions in the other plant and three women accepted them,
- the respondent amended its recruitment and screening procedures to eliminate selection based solely on the ground of sex. Also, the company's medical examination was altered to exclude questions not based upon ability to perform the duties of the position, and
- the respondent agreed to establish an affirmative action program to increase the employment of women. The special program included the following elements,
    - the company agreed to accept referrals from Canada Manpower Centres, local educational institutions and women's organizations,

- preference is given to female applicants whose qualifications are similar to those of male applicants,
- human rights seminars were arranged for management employees,
- the company will report twice yearly, for two years, to the Commission on the numbers of males and females who apply, are interviewed, and hired for general labouring positions.

*****

The complainant had begun her employment as administrative assistant to the respondent in 1982. She alleged that her employer had frequently put his arm around her shoulders or waist, and she had repeatedly told him that these gestures made her uncomfortable. Shortly before she filed her complaint, her employer asked her to accompany him on a business trip. She alleged that he made sexual advances during the overnight stay, despite her objections. She then resigned from the company.

Her complaint alleged that her employer had subjected her to sexual solicitations and advances, and that he knew this conduct was unwelcome.

During the fact finding conference, the respondent admitted touching the complainant during her employment, but stated that he intended only to show his appreciation of her work performance. He did not deny making sexual advances towards her, but claimed that she had overreacted to these advances.

During conciliation discussions, the parties agreed to the following terms of settlement:

- The complainant received compensation in the amount of $2,500 for earnings lost due to discrimination and $800 for insult to her dignity,
- the respondent provided her with a letter of reference,
- the respondent issued a directive to all employees, notifying them of the company's policy prohibiting sexual harassment,
- posters outlining the provisions of the Code were displayed on company premises.

*****

The two female complainants had been employed as trainees in the accounting department of a large retail store for two months. They alleged that the manager had stated during the interview that he wanted a woman for the job, and that the training period would involve irregular hours. They also claimed that he made verbal and physical sexual advances towards them during training, which was held in the evening and on an individual basis. They were dismissed shortly thereafter, and were informed that this was due to a shortage of work. Their complaints alleged that they were subjected to sexual advances despite the fact that the manager knew they were unwelcome, and were dismissed for objecting to these advances.

During the investigation, the Commission interviewed several female co-workers and a number of women who had formerly worked for the individual respondent. Most of them stated that they, too, had been required to obtain training after hours and had been subjected to sexual advances. Two co-workers informed the Commission that the complainants had told them about the harassment. The company's personnel manager indicated that the individual respondent hires only women, and that there was a rapid turnover among his employees.

The findings of the investigation supported the allegations. Moreover, two senior managers confirmed that the two women had complained to them about their supervisor's conduct.

During conciliation, the company agreed to compensate each complainant in the amount of $1,000 for insult to their dignity. Both had found suitable employment upon leaving the company, and therefore did not seek compensation for lost earnings. In addition, the corporate respondent agreed to circulate a written policy regarding sexual harassment, including sanctions against employees who violate the policy.

*****

The complainant had been employed as a purchasing agent for a large hospital for two years. She alleged that she applied for the position of director of purchasing, and was refused this promotion because of her sex.

The investigation disclosed that although both the complainant and the successful candidate had relatively equivalent experience in stock-taking and ordering supplies, the man who was placed in the position had been trained as a business analyst and had more experience than the complainant in dealing with individuals at all levels of a large organization. In addition, the evidence showed that the complainant lacked initiative in carrying out her duties, and did not know the sources or price comparisons of the supplies for which she was responsible.

The overall evidence did not substantiate the allegations. The complaint was dismissed by the Commission for the following reasons:

- The complainant's work record and her lack of professional experience, relative to those of the successful candidate, were factors in the employer's decision not to promote her to the position;

- of the nine directors at the hospital, six were women. Women occupied other senior-level positions throughout the hospital, indicating that hirings and promotions are carried out without regard to sex.

*****

Handicap

The complainant, a man who had epilepsy, worked as a cleaner for a large manufacturing firm. He alleged that he suffered a seizure while at work and was briefly admitted to hospital. When he returned to work, he was informed that his services were being terminated for the reason that his condition made it unsafe for him to climb ladders, which was a necessary part of his duties. The complainant alleged that he explained to his supervisor that he would remain free of seizures if he took his medication regularly and that his seizure had caused no injury to himself or others.

During the fact finding conference, the complainant provided several letters of reference stating that his work performance had always been good. The respondent agreed that the man was an able and competent employee. Following a discussion concerning the complainant's responsibility to take his medication regularly, the parties agreed to the following settlement:

- The complainant was reinstated to his position,
- the respondent compensated the complainant in the amount of $1,200 representing earnings lost following his dismissal,
- the respondent agreed to write a letter of apology to the complainant, and a letter of assurance of its policy of non-discrimination to the Commission.

*****

The complainant alleged that he had applied for a position with a financial institution, and was informed that he would have to undergo a medical examination by the company physician. He was then told that he was not suitable for employment because the examination had disclosed a back ailment. He filed a complaint with the Commission alleging denial of the right to equal treatment with respect to employment without discrimination because of handicap.

During the fact finding conference, the complainant explained that he had had no problems with his back in several years. He requested the opportunity to be examined by an independent physician. The employer agreed that the complainant was qualified for the position in question.

The parties agreed that if the independent medical examination revealed no health problems that would interfere with the complainant's ability to perform the essential duties of the employment, the employer would offer him the job. In addition, the respondent agreed to amend its recruitment and employment practices to ensure that no questions about health record or handicap would appear on the application form, and that the company medical would be related to ability to perform the job.

The complainant was examined, and passed the medical. He immediately began working for the respondent, and the case was closed as settled.

*****

A man who had sustained a spinal injury alleged that his employer had changed the duties of his position as a labourer while he was recovering from the injury, and that the employer dismissed him because he was considered to be medically unfit to perform in the newly defined job. The complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of handicap.

The investigation revealed that the respondent was obliged to change its organizational structure and operations during the six-month period that the complainant was absent from work, because of economic decline and a change of customer requirements. The company's new operations required more employees in manual labour, and there were no positions involving light work to which the complainant could be transferred. An independent medical examination revealed that the complainant's handicap rendered him unable to perform the new duties of the position. The Commission observed several employees during the work day and found that 90 per cent of the working hours involve repeated bending, heavy lifting and pushing heavy objects.

The evidence gathered did not substantiate the allegations. The case was dismissed by the Commission for the following reasons:

- The evidence indicated that the duties of the complainant's former position had been changed during his absence, to the point where the duties involve manual labour. The classification of the position had been changed to reflect these changes following negotiations with the union,
- the medical evidence indicated that the complainant was not capable of performing the essential duties of the position.

*****

The complainant, a 56-year-old man, had worked as a sales representative with the respondent for 14 years. He alleged that his employer informed him that he was "putting him on retirement" because the company was in economic decline and the complainant was closer to retirement age than other sales representatives. His complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of age.

During the investigation, members of management did not dispute that age had been a factor in the decision to release the complainant, but they stated that the complainant's sales volume was not as high as some of the employees who were retained. An examination of company records revealed, however, that the complainant's sales were improving and were better than average at the time of his layoff.

In addition, the comptroller of the company stated that he had suggested transferring several employees to other departments, a move which would have avoided the necessity of dismissals, but his recommendation was rejected.

The weight of the evidence supported the complainant's allegations. In conciliation, the parties agreed to the following settlement:

- The respondent would compensate the complainant in the amount of $6,000 representing earnings lost as a result of discrimination and damages for insult to his dignity,

- the respondent would display posters outlining the provisions of the Code on the company's premises.

*****

Creed

The complainant, who became a member of the World Wide Church of God several years after beginning his employment, alleged that the employer refused to accommodate his religious beliefs by allowing him time off to observe the sabbath. It is a requirement of the faith that members abstain from work from sunset on Friday to sunset on Saturday. In his complaint, he stated that the employer informed him that he would be dismissed if he failed to report for his Friday evening shift. The complaint alleged discrimination in employment because of creed and alleged that the employer's requirement, while neutral on its face, had an adverse effect on members of faiths whose beliefs prohibit them from meeting that requirement.

During the investigation, company officials maintained that they had not intended to violate the complainant's religious rights. However, the Commission explained that under section 10 of the Code, an employer need not intend to exclude adherents of a particular faith for discrimination to occur. Employment policies and practices that apply to all employees equally but have the effect of excluding members of a religious faith are prohibited unless the practices are reasonably necessary to the employer's business operations.

The Commission learned that several day shift positions were coming available in the plant. The complainant was advised to approach his union representative and request that the union executive waive the posting requirements so that the complainant could be assured of one of these positions.

Conciliation discussions resulted in the following terms of settlement:

- It was agreed that if the union did not waive the postings, the complainant would bid on the job. If this failed, further conciliation would be pursued,

- both parties agreed that the complainant would use part of his vacation leave to observe special holy days,

- the complainant agreed to provide his employer with a list of obligatory holy days in advance, to ensure adequate planning for his absences.

The Commission subsequently made inquiries and learned that the union had waived the posting. The complainant was placed in a new position on the day shift, where he was not required to work on Saturday. The case was then closed as settled.

*****

The complainant, who is Jewish, alleged that he had been refused permission to leave his shift early in order to observe the religious holy day of Rosh Hashana. His complaint stated that he did not complete his shift, and was dismissed because he had left his place of work without permission. The complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of creed.

The investigation disclosed no evidence that the complainant had requested time off for religious observances. Other Jewish employees stated that they were granted time off for high holy days when they asked for such leave. The complainant had been in the employ of the respondent for four days at the time of the alleged incident, and his supervisor maintained that his work performance and time-keeping had been poor.

The Commission dismissed the case because the evidence gathered did not substantiate the allegations of discrimination on the basis of creed. On the contrary, the evidence indicated that the complainant had not requested time off to observe Rosh Hashana, and left his post unattended in the middle of his shift. In addition, other Jewish employees did not encounter difficulties in obtaining time off for religious observances.

The complainant sought reconsideration of this decision under section 36 of the Code. The Commission reviewed the file, together with the information provided by the parties during the reconsideration process. The Commission reaffirmed its decision not to request the appointment of a board of inquiry, and the following reasons were sent to the parties:

- The evidence indicated that the complainant did not request time off from work in order to observe religious holidays, either at or after the time he was hired. The respondent provided assurances that if the complainant had requested time off for religious observances, reasonable efforts would have been made to accommodate this request;

- during the four-day period of his employment, the complainant was warned about several instances of poor work performance,

- the complainant was not dismissed from his employment. He walked off his job in the middle of his September 7-8 shift, advising the site supervisor that he had resigned. When the company was unsuccessful in efforts to locate him on September 8 and 9, his position was filled;
- other Jewish employees stated that they had not been discriminated against because of their creed, a fact the complainant acknowledged.
- The evidence, therefore, indicated that the complainant was not discriminated against because of creed.

*****

Record of Offences

The complainant had applied for employment as a security guard in a large firm. He alleged that the employment application form included the question of whether the applicant had a criminal record. He informed the employer that he had been convicted of an offence, but had been granted a pardon. He attached a copy of the pardon to the application form. When he later inquired about the status of his application, he was informed that he would not be hired because of his criminal record. His complaint alleged denial of the right to equal treatment with respect to employment without discrimination because of record of offences.

During the fact finding conference, the respondent did not dispute that he preferred to hire persons who had never been convicted of an offence. However, the employer was unable to demonstrate that such a preference was a reasonable and bona fide requirement because of the nature of the employment. The evidence substantiated the allegations.

Because the complainant had found alternative employment, he did not request to be placed in the first available position with the respondent. The parties agreed that the respondent would compensate the complainant in the amount of $650 representing earnings lost as a result of discrimination, and provide the Commission with assurances of a policy of non-discrimination.

*****

ACCOMMODATION, GOODS, SERVICES AND FACILITIES

Race, Colour, Ethnic Origin, Handicap, Receipt of Public Assistance, Sex, Creed

The two complainants, who were black women, alleged that they had viewed a vacant apartment which had been advertised in the newspaper. They stated that when they arrived at the premises, the landlord told them he could not rent to black persons because he did not consider them to be desirable tenants. In their complaint, which alleged denial of the right to equal treatment with respect to accommodation without discrimination because of race and colour, the women stated that they had been accompanied by a friend who witnessed the comments made by the landlord.

During the fact finding conference, the respondent landlord made several racially derogatory remarks to the complainants. Following a discussion of the facts provided by the parties, the complainants' friend verified that the landlord had expressed racially prejudiced attitudes when he and the women visited the rental accommodation. This and other evidence supported the allegations.

In conciliation, the complainants outlined the out-of-pocket expenses they had incurred as a result of the respondent's actions. These included taxi and bus fares and loss of wages for half a day, as well as the necessity to rent a more expensive apartment.

The following settlement was reached among the parties:

- Compensation to each complainant in the amount of $750 representing expenses incurred because of discrimination and damages for insult to their dignity,

- a letter of apology to the complainants.

*****

The complainant alleged that she had been threatened with eviction from her apartment because a relative with a mental disorder had entered the apartment building a number of times and caused a disturbance. The complainant was usually unaware of these incidents, because her relative tended to visit the common areas of the building. The woman stated that she advised her landlord to call the police whenever this occurred, but the landlord refused to do so. Her complaint alleged that she had been discriminated against because of her relationship with a person identified by a prohibited ground of discrimination, namely, handicap.

Because the complainant was concerned that she may be evicted before long, the Commission handled the case on a priority basis. Contact was immediately established with the manager of the building and it was explained to her that the complainant was not responsible for the conduct of a relative. The respondent agreed to notify the police that the man in question was barred from the premises, and the eviction notice was withdrawn. The complainant expressed her satisfaction with this outcome and the case was closed as settled.

*****

The complainant, who was in receipt of unemployment insurance benefits, alleged that he was denied rental of an apartment on a three-month sublease. His complaint alleged denial of the right to equal treatment with respect to accommodation without discrimination because of receipt of public assistance.

During the fact finding conference, it was learned that the amount of the complainant's income was more than adequate to meet the monthly rental of $280 and all other expenses. He had just begun receiving unemployment insurance and was eligible for these benefits for one year at the maximum payments. In addition, the complainant had offered the respondent landlord a money order which would cover two months rental at the time of his application. The evidence supported the allegations.

When conciliation discussions were entered into, the respondent agreed to rent the apartment to the complainant.

*****

The complainant, a 35-year-old male with diabetes, purchased a six-month auto insurance policy from a large insurance company. He explained that he was a controlled diabetic. He alleged that his policy was cancelled two weeks later, with the explanation that the company did not insure persons with diabetes. His complaint alleged discrimination in goods, services and facilities, and contracts, because of handicap.

During the investigation, it was learned that it is common practice in the insurance industry to make distinctions on the basis of certain handicaps. The respondent claimed that an insurance agency could adjust the rate on the basis of age, sex and marital status, but no such rate adjustment had been developed for persons with a handicap. Therefore, the only recourse was to decline those risks that did not fit the underwriting criteria.

In the course of conciliation negotiations, the Commission pointed out that there is a growing trend in the insurance industry to assess clients on an individual basis, rather than to rely upon group characteristics, in determining eligibility with respect to age, sex and marital status. The Commission therefore concluded that the respondent's distinction on the ground of handicap was not based on reasonable grounds because of the nature of the particular handicap and the specific circumstances of the individual complainant.

After a discussion of these factors, the following proposals of settlement were accepted by the parties:

- The respondent agreed to delete the exclusion of persons with physical or mental handicaps in its rating manual,
- the respondent offered to reconsider the complainant's application for insurance coverage,
- the respondent agreed to change its policy on the assessment of applicants with a handicap, and to underwrite a disability on an assessment-of-risk basis, rather than on the basis of group characteristics;
- a memorandum outlining these policy changes was sent to all regional managers, and the procedural manual was amended to reflect the new policies.

*****

The complainant was one of three females enrolled in a technology program at a post-secondary institution. The majority of students were males. She alleged that a male instructor repeatedly made sexual advances towards the female students and that they refused these advances. They also alleged that the instructor was overly critical of their performance on assignments after they had informed him that his solicitations were unwelcome. She then alleged that officials of the institute took no action when she made them aware of the instructor's conduct. Her complaint alleged that she was denied the right to equal treatment with respect to services and facilities without discrimination because of sex, and that she was subjected to unwelcome sexual solicitations and advances.

The Commission interviewed other female students who were enrolled in courses taught by the instructor in question and they stated that they had been subjected to sexual advances and sexually derogatory remarks. These students were of the opinion that women were treated less favourably than men in course assignments, grades and opportunity to participate in class. The evidence tended to support a case of discrimination on the basis of sex.

In conciliation, the parties agreed to the following terms of settlement:

- The instructor compensated the complainant in the amount of $1,500 for insult to her dignity,

- the respondent institution has formulated a policy and complaint procedure with respect to sexual harassment and sex discrimination,

- the institution agreed to participate in human rights seminars sponsored by the Commission,

- the institution arranged for the complainant's work assignments to be graded by another instructor, and confirmed that the individual respondent would not be teaching any courses in which the complainant enrolled in future semesters.

*****

DECISIONS OF BOARDS OF INQUIRY

AND THE COURTS

1984/85

EMPLOYMENT

Sex, Sexual Harassment, Marital Status, Handicap

Cameron and Nel-Gor Nursing Home, Nelson, Solimano

The complainant had a congenital malformation of the left hand, which resulted in three fingers being shorter than normal. She alleged that she was refused a position as a nurse's aide in the respondent nursing home because of her handicap.

During the hearing, the complainant testified that the assistant administrator of the nursing home had interviewed her and had indicated that there was an excellent chance she would be hired on the basis of her personal qualities and experience. The complainant was given a pre-employment medical examination form to be completed by her physician, who referred to her congenital defect, but stated that it did not diminish her ability to such a degree as to prevent the safe performance of her duties as a nurse's aide.

Testimony revealed that when the nursing home administrator became aware of the complainant's handicap, she told her that she would not be hired because "we could not take a chance on a resident being dropped". It was clear to the board, however, that the complainant had informed the respondent that her previous jobs had required her to grip, lift and carry handicapped children, and she had not had any problems. Testimony also indicated that none of the nursing home officials had asked the complainant to demonstrate her ability to grasp heavy objects in a simulated lifting situation.

An occupational therapist testified that she had performed a job demands/job performance analysis on the complainant and had found that she could perform each task associated with the position in a very competent manner. A plastic surgeon specializing in congenital hand surgery testified that the complainant can compete as a nurse's aide on an equal level with any of her peers.

The board then addressed the question of the onus on the respondent to establish that the complainant is incapable of performing or fulfilling the essential duties or requirements of the job because of handicap. This defence is provided under section 16(1)(b) of the Code. The board stated, "Good faith, or lack of malice or improper motive, is irrelevant to handicap situations. The defence has to be founded upon an objective basis".

The board found that lifting patients is an essential aspect of the nurse's aide job function. "However, it is also my view that it is not apparent to a reasonable observer that Ms. Cameron's handicap renders her incapable of performing the task of lifting in the job of nurse's aide . . . Under the circumstances, the respondent should have put Ms. Cameron to the test of a simulated exercise in lifting a patient". The board concluded that the evidence clearly established that the complainant's handicap will not in any way restrict her in being able to lift nursing home patients.

Having found that discrimination had occurred, the board ordered the following:

- The respondent shall offer in writing to the complainant, employment in the position of nurse's aide at the nursing home, when the position next becomes available due to a vacancy, and the complainant shall have seven days after receipt of such offer of employment to accept the offer;
- the respondents are jointly and severally liable to pay to the complainant the sum of $1,915 as damages for lost wages, the sum of $2,000 as general damages, and, as interest in respect of the awards of damages, the sum of $636;
- the respondent shall cease and desist forthwith in discriminating because of handicap in the hiring of employees.

The respondent is appealing the decision and order in the Supreme Court of Ontario, Divisional Court.

Commodore Business Machines Ltd., DeFilippis and the O.H.R.C., Olarte et al

The Divisional Court of the Supreme Court of Ontario was the first court in Canada to consider whether sexual harassment in the workplace constituted discrimination against women in contravention of human rights legislation in Canada. The case involved the complaints of six female employees of Commodore Business Machines Ltd. The six women filed complaints with the Commission which requested the Minister of Labour to appoint a board of inquiry when efforts to conciliate the complaints had failed.

The board of inquiry found that a foreman at the company had repeatedly made sexual advances towards the women, asked for invitations to their homes and requested that they engage in sexual intercourse. When the women refused his advances, he shouted at them, found fault with their work, and shifted them to heavier duties with the result that four resigned and two were dismissed.

On the basis of these findings, the board concluded that these women had been discriminated against in contravention of the Code. The board accordingly ordered the foreman and his employer, Commodore Business Machines, to pay $21,812 to the women in compensation for lost wages, mental anguish and interest. The foreman was ordered to stop his sexual harassment of female employees and the company was ordered to do whatever was necessary to ensure that the foreman ceased his conduct.

Since the complaints of the six women were lodged, the Code has been amended and now specifically provides for the right to freedom from sexual harassment. At the time of these complaints, they were filed under a section of the former Code that prohibited discrimination because of sex in terms and conditions of employment.
The company and the individual respondent appealed the decision of the board of inquiry to the Supreme Court of Ontario, Divisional Court. The Divisional Court upheld the decision of the board of inquiry.

The Court decided several issues which are of importance in other human cases. Counsel for the appellants had argued that their clients had been denied the legal rights provided by section 11 of the Canadian Charter of Rights and Freedoms. However, section 11 only provides rights upon being charged with an offence and the Court found that a complaint under the Code is not charging a person with an offence. Therefore section 11 had no application.

The question as to the manner in which the chairman of the board of inquiry was appointed was also raised and the court concluded that any reasonable and right-minded person would not have any apprehension of bias. There was no evidence which would suggest that there was any bias operating in the appointment of the board chairman.

The important question of similar fact evidence was also considered. The board of inquiry had admitted and relied on the evidence of other female workers at the company that they had been subjected to sexual harassment by the individual respondent. The Divisional Court held that the board chairman had properly admitted and considered this similar fact evidence.

Mark and Porcupine General Hospital, Moyle

The complainant had been hired as a part-time housekeeper by the respondent hospital's maintenance supervisor. Her complaint alleged that several weeks after she began her employment, the senior administrator dismissed her from the position because she was married to another employee who worked in the same department. She was informed that there was a hospital policy whereby spouses could not work together in the same department, a fact of which the maintenance supervisor was unaware. Her complaint alleged discrimination in employment because of marital status.

During the hearing, representatives of the corporate respondent testified that the policy was established to prevent resentment among departmental employees when the spouse of a supervisor receives a promotion or a full-time position. However, the board noted that the evidence indicated that such moves are awarded on a seniority basis. Moreover, in any event, the complainant's husband was acting supervisor and, as such, he did not have the authority to award promotions.

The board then addressed the definition of "marital status", as provided under the Human Rights Code, 1981 and as interpreted by boards of inquiry and the courts.

"Marital status" is defined in the Code as the status of being married, single, widowed, divorced or separated, and includes the status of living with a person of the opposite sex in a conjugal relationship outside marriage.

The board chairman cited a decision of a previous board of inquiry in Ontario which found that discrimination on the basis of marital status is confined to the situation where the denial is simply because the complainant is married. The Code was not deemed to cover discrimination because the complainant is married to a particular person. The chairman disagreed with this interpretation on the grounds that it was unduly narrow.

The board went on to consider whether or not the employer could establish that "marital status" was a bona fide and reasonable qualification due to the nature of the employment in question. The chairman decided that there was no definite and certain concern, such as a potential conflict of interest between the complainant and her husband, that would justify excluding persons from employment in the maintenance and housekeeping department on the basis of marital status.

Having found that discrimination had occurred, the board ordered the following:

- The respondents are jointly and severally liable to pay to the complainant the sum of $872 as damages for lost wages, the sum of $200 as general damages and, as interest, the sum of $72;
- the corporate respondent shall give notice in writing to the complainant, personally, as to any and all positions of employment (other than positions to which nurses or doctors would be hired) at the hospital as they become available due to vacancies, until the end of 1986 or the employment by the respondent of the complainant, whichever comes first, and shall consider any application for employment submitted by the complainant on its merits and in compliance with the Code.

Robinson and The Company Farm Ltd., Nuttall

The complainant had begun her employment as a tractor operator on a farm in May of 1981. She alleged that she was subjected to sexual advances by her employer, was refused training and a transfer to another position, and ultimately dismissed from her employment because she refused to submit to these advances. The individual respondent is owner and president of The Company Farm Ltd. The complaint alleged discrimination and harassment in employment on the basis of sex.

During the hearing, the complainant testified that the respondent informed her that it would be "in her best interests" to accept his invitation to accompany him to his cottage. When she refused, she claimed that the respondent told her that he might replace her with a man who was interested in the job. Payroll records introduced as evidence indicated that this man assumed the complainant's duties after she was dismissed in early July.

Similar fact evidence of sexual harassment was provided by a woman who had worked for the respondent three years previously. The board of inquiry accepted her evidence and noted that she had never met or discussed the matter with the complainant.

The board found the respondents to be in breach of the Code, and ordered the following:

- The respondents were jointly and severally liable to pay to the complainant the sum of $600 as damages for lost wages, and the sum of $750 as general damages;
- the respondent, Wilson Nuttall, shall cease and desist forthwith in the sexual harassment of female employees of the corporate respondent;

- the respondent, The Company Farm Ltd., shall do whatever is necessary to ensure that the respondent, Wilson Nuttall, ceases and desists forthwith in the sexual harassment of its female employees.

Watt and the Regional Municipality of Niagara, Wales

The complainant, who was employed as a member of a road crew, alleged that her supervisor and a foreman had subjected her to terms and conditions of employment that were less favourable than those enjoyed by male employees in the same position. The allegations suggested that the complainant's supervisor was engaged in a course of attempting to provoke her dismissal from her employment, and also referred to insulting or obscene remarks made by the supervisor to the complainant during working hours.

The complaint alleged discrimination in employment on the ground of sex.

The complaint arose against the background of the introduction of women into a traditional area of male employment. Many witnesses testified during the hearing that the road crew was a coarse and rough working environment.

Representatives of the respondent denied the allegations, and testified that the complainant was not a very satisfactory employee, and her supervisor was a stern disciplinarian who established high performance standards for all of his employees.

Counsel for the complainant and Commission advanced the position that some of the supervisor's alleged conduct constituted sexual harassment. The board chairman, therefore, drew upon case precedents in an effort to determine whether an abusive work environment can be construed as sexual harassment. It was the board's view that for such a complaint to succeed, the work environment must be characterized by frequent incidents of offensive conduct, directed only at the female employees.

The board chairman found, on the basis of the evidence, that many of the alleged incidents were not seriously offensive when placed in context, and the cumulative effect of the incidents did not impose a discriminatory condition of work within the meaning of the Code. The evidence indicated that the complainant's work performance remained below standard despite progressive discipline, and the board concluded that, "The totality of the evidence concerning the complainant's work performance indicated that she was resentful of authority in a general way, but particularly resentful of the supervision of Mr. Wales". The testimony also revealed that the only other female member of the road crew had a cordial work relationship with the supervisor; she offered no evidence of verbal or other harassment against her.

The evidence also indicated, in the opinion of the board, that the supervisor's conduct had not encouraged the creation of a work environment in which the complainant's co-workers subjected her to harassment. The work relationships among the employees were satisfactory and the co-workers had positive attitudes towards the complainant's work.

Since the allegations were not substantiated by the evidence, the complaint was dismissed.

Race, Colour, Ancestry, Place of Origin, Ethnic Origin, Citizenship

Barnard and the Canadian Corps of Commissionaires (Toronto and Region)

At the time of the complaint, Mr. Barnard was a permanent resident, but not yet a citizen of Canada. Of East Indian origin, he had served with distinction in the Indian Army during World War II. He alleged that the Canadian Corps of Commissionaires had refused his application because he was not a Canadian citizen. The complaint, which was filed under the former Human Rights Code, alleged discrimination in employment because of nationality, which was interpreted to include citizenship. (The new Code includes citizenship among the prohibited grounds of discrimination).

Testimony introduced at the hearing indicated that the qualifications for membership in the Corps include a requirement that an applicant be a Canadian citizen or a British subject. The complainant had ceased to be a British subject when India gained her independence.

Counsel for the Corps argued that the relationship between a Commissionaire and the Corps is not one of employment, but rather membership in a club. However, because the Corps was founded in part to assist retired military personnel to find useful work in the civilian world, and because Commissionaires are paid by the Corps to perform a security function, the board concluded that the relationship between an applicant and the Corps is in essence one of employment, and is therefore covered by the Code.

The board also found that the employment exception provided under the Code for "exclusively fraternal or social organizations" did not apply in this case, since the Corps provides employment for its members.

The chairman of the inquiry also held that citizenship is not a bona fide occupational qualification or requirement for the position of Commissionaire, stating, "Citizenship does not assure the Corps that the applicant is knowledgeable about the institutions where he will be working, or that he is honest or loyal or industrious or not a security risk".

Having found that discrimination had occurred, the board ordered that the Corps compensate the complainant in the amount of $1,000 for earnings lost due to discrimination and $500 in damages for insult to his dignity. The respondent was also ordered to consider as soon as is reasonably possible any renewal of the complainant's application for membership in the Corps.

The respondent is appealing the decision and order in the Supreme Court of Ontario, Divisional Court.

Blake and The Mimico Correctional Institute, Ministry of Correctional Services

The complainant, a 50-year-old black female originally from Jamaica, made two applications in response to advertisements for the position of correctional officer with the respondent Institute during 1977. She alleged that her applications were rejected because of race, colour, sex and age.

Shortly after filing a complaint of discrimination with the Commission, the complainant again applied for a position with the Institute. She was called in for an interview and was later informed that her application had been unsuccessful.

In its investigation of the complaint, the Commission reviewed all applications for the position in question that had been received over the one-year period during which the complainant had applied.

The board chairman provided a detailed analysis of the evidentiary value of statistical evidence in complaints of discrimination, and noted that, "In the case at hand, statistical evidence was sought to be used as the significant component of the evidence in seeking to prove discrimination, and in this respect the case would seem unique to Canada".

The board pointed out that statistics indicate patterns of conduct rather than specific occurrences, thus representing a form of circumstantial evidence from which inferences of discriminatory conduct may be drawn. Statistical evidence may be useful in complaints involving a requirement that is neutral on its face but has a disparate impact on a particular group. Because discrimination is often covert, a board of inquiry or court should be sensitive to obvious inferences that may be gleaned from statistics. At the same time, statistical evidence must be linked to the specific incidents alleged.

Because the complainant had alleged that she was refused employment for discriminatory reasons, the Commission sought to determine and evaluate the reasons for the rejection and acceptance of applicants for the position of correctional officer with the respondent over the period from June, 1977 to May, 1978. The method of statistical analysis used was the "applicant flow analysis", which attempted to show a disparity between the percentage of women among those who applied for the position and the percentage of women among those hired for the position. Similar comparisons were made on the basis of national origin and age.

The results of the analysis indicated that the probability of being invited for an interview significantly declined if the applicant was not of European origin and was female.

It was the opinion of the board that a prima facie case of discrimination because of sex had been made out by the statistical evidence, at least for the time period in question. The board chairman stated that discrimination because of sex was endemic to the recruitment system at Mimico until a new superintendent was appointed. The board heard evidence that a systematic central recruitment process was instituted in 1981, and that it is now the intent to increase the employment of females in positions throughout the Ministry of Correctional Services.

However, the board found that when all of the evidence was considered, the complainant was not personally discriminated against because she was a woman, or on any other prohibited ground under the Code.

For this reason, the complaint was dismissed.

Fu and the Ontario Government Protection Service, Gordon

The complainant, a man of Chinese origin, alleged discrimination and harassment in the course of his employment as a security officer, because of race, colour and place of origin.

Mr. Fu's complaint alleged that his supervisor, Mr. Gordon, had singled him out for differential and harassing treatment. His testimony before the board focussed mainly upon two alleged incidents occurring in May of 1983, following which he was transferred to another post within the service.

The board found, on the basis of the evidence before it, that the actions taken with respect to the complainant had not been motivated by his race, colour or place of origin. The chairman observed, however, that "Management, and particularly Mr. Gordon, could have done a better job in their dealings with their subordinates, particularly Mr. Fu. However, I find on the evidence that his shortcomings as a manager towards Mr. Fu and the witnesses on his behalf were not due to a racist motivation, and he was not in infringement of the Code in respect of the complainant."

At the hearing, testimony was introduced that Mr. Gordon had made disparaging remarks about visible minorities. The totality of the evidence indicated to the board, however, that although Mr. Gordon had used racial jokes and slurs, he had never made a racial joke or slur directly to Mr. Fu or any other non-white employee. Moreover, the racial comments were not connected with the alleged unequal treatment, in the view of the board.

In explaining the application of the Code to allegations of racial harassment, the board noted that section 4(2) of the Code provides that:

> "Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status or handicap."

Section 9(f) defines "harassment" as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

Hence, explained the board, racial jokes, insults, slurs or other "comment" such as false and embarrassing accusations of misbehaviour could amount to "harassment" as defined, and "conduct" would include discriminatory treatment with respect to postings, transfers, hours of work or other working conditions.

Because the board could find no evidence of a pattern of racial harassment or differential conduct toward the complainant or any other non-white security officers, the complaint was dismissed.

Moreover, the board reviewed all of the formal grievances filed by the union on behalf of employees of the respondent over a two-year period, and could ascertain no allegations of racism in any except that of Mr. Fu, which did not overtly raise racism as an issue.

The board observed that the respondents could have done more in the way of effectively communicating with the complainant, particularly regarding the reason for his transfer at the time he was told of it. The board also expressed concern about the evidence of racial jokes and slurs, pointing out that such humour masks a form of racism and can lead to a perception of racist motives when other problems arise in an employment situation.

The board also commented on the demeanour of the complainant and the individual respondent. Having observed Mr. Fu as a witness, the board described him as a morally rigid and self-righteous person who becomes easily fixed in his views and opinions. Mr. Gordon was described as being officious and stubborn in the position he takes, as defensive and argumentative when challenged and aggressive and threatening when he can exercise his authority.

The complainant has filed a notice of appeal from the decision in the Supreme Court of Ontario, Divisional Court.

Hyman and Southam Murray Printing, International Brotherhood of Teamsters Local 419

A board of inquiry was appointed to hear and decide four complaints filed by a black man of Jamaican origin.

Mr. Hyman's first complaint alleged that the management of the company had subjected him to differential terms and conditions of employment, in that the company had failed to intervene when he was harassed by a co-worker, and had unfairly disciplined him on a number of occasions. This complaint alleged that the company's actions were based on discriminatory attitudes towards the complainant, based on his racial and ethnic origin.

The first complaint against the union alleged that union officials had inadequately represented the complainant's interests after disciplinary measures were taken against him by the company.

Subsequent to the Commission's investigation of these complaints, the complainant's employment was terminated. Mr. Hyman then alleged that he was dismissed because he had previously filed a complaint with the Commission against the company. A second complaint against the union alleged that the union did not vigorously pursue the complainant's grievance following his dismissal because he had previously filed a complaint against the union. Both complaints alleged that these acts constituted reprisals against the complainant because he had taken part in a proceeding under the Code.

The board found on the evidence that the respondents' decisions were not motivated by discriminatory attitudes. In addition, the chairman found significant evidence of a good faith attempt on the part of the union to respond effectively to Mr. Hyman's grievances.

The board heard evidence regarding several additional allegations of discriminatory treatment by officials of the company and union. The chairman found that the evidence did not support these allegations, and stated that, "Plausible explanations for the actions in question have been brought forward in evidence by both respondents. Those explanations are unrelated to racial discrimination and they are also unrelated to a suggestion of harassment because of the complainant's earlier complaints".

For this reason, the complaints were dismissed.

Both respondents submitted that the parties should be entitled to an award of costs sustained by them in the board proceedings. The chairman did not award costs, however, because he was not satisfied that the complainant was completely insincere in his belief that he had been unjustly treated by the employer and union because of discriminatory attitudes.

ACCOMMODATION, GOODS, SERVICES, FACILITIES

Race, Colour, Ancestry, Place of Origin, Ethnic Origin

Murray, Landrum and The Anchor and Wheel Inn, Emrich

The complainants, who are black citizens of the United States, had alleged that they and two other black persons registered at the respondent hotel for a weekend visit. They were assigned a room in a building away from the main hotel which had no dining facilities. The members of the party were allegedly told that they could not eat in their room and could not eat in the dining room because other guests might object to the respondent serving meals to black patrons.

It was further alleged that the respondent had refused to allow the party to take a room in the main building. Moreover, the complainants stated that the building to which they were assigned was in a dilapidated state of repair.

The complaint alleged discrimination with respect to accommodation, services or facilities available in any place to which the public is customarily admitted because of race and colour.

The board found clear evidence that the complainants were informed that they and other members of their party would not be permitted to eat in the main dining room because they were black. No other reason was given for their being denied access to the dining room facilities. The board concluded that the respondent had breached section 2 of the former Ontario Human Rights Code.

With respect to the allegation that the party had been denied a room in the main building, the board found no evidence that Mrs. Landrum had ever requested a room in the main portion of the hotel, despite the fact that the respondent had shown them rooms in that building.

Having found a breach of the Code, the board ordered that:

- The respondent pay to each of the complainants the sum of $300 as compensation for injured feelings,
- the respondent keep posted a placard supplied by the Commission setting out the principles of the Code in a prominent place near the entrance of the Anchor and Wheel Inn,
- the respondent provide a letter of apology to each of the complainants,
- the respondent provide a letter to the Commission undertaking that he will, in future, comply with the Code at the Anchor and Wheel Inn operated by him;
- that the respondent place an advertisement in the following newspapers: The Leamington Post and News, The Windsor Star, and The Detroit Free Press, indicating that, as Resident Manager of the Anchor and Wheel Inn, he will not deny to

any person or class of persons accommodation, services or facilities available at the Inn or discriminate against any person or class of persons with respect to the accommodation, service or facilities available at the Inn because of the race, creed, colour, sex, marital status, nationality, ancestry or place of origin of such person or class of persons or of any other person or class or persons;

- the respondent send the letter of apology, the letter of undertaking and the draft advertisement referred to above to counsel for the Commission.

Tabar, Lee, Lee and West End Construction Ltd., Scott

At the time of the hearing, the corporate respondent owned and managed an apartment building complex which contained a "tuck shop" variety store. Mr. Tabar alleged that he signed a lease with the respondent in 1976 and became proprietor of the variety store. Shortly thereafter, Mr. Tabar decided to sell his tuck shop business. To effectively do so, he had to be able to transfer his interest as tenant, which required the consent of the landlord.

The lease contained a clause allowing the landlord arbitrarily to refuse an assignment or sub-let. Mr. Tabar alleged that West End, through the individual respondent, discriminated against himself and prospective purchasers in the occupancy of a commercial unit on the grounds of race, colour, nationality, ancestry or place of origin. His complaint stated that Mr. Scott, Vice-President of West End, refused to consent to the assignment of the lease to several individuals who were of East Indian or Pakistani origin. The lease was later assigned to a man of Korean origin.

On the issue as to why the individual respondent was not prepared to consider two previous prospective tenants, the board found on the evidence that the respondents did not rent to them because they did not want East Indians as owners/operators of the tuck shop.

In March, 1979, Mr. and Mrs. Lee, who were of Korean origin, alleged that they subsequently bought the business and attempted to sell it two years later. They testified that Mr. Scott had informed them that he did not wish any purchasers of East Indian, West Indian or Pakistani ancestry, and that a prospective purchaser of East Indian origin was refused the lease. The board found, on the basis of the evidence, that the sole reason why this offer was not acceptable was that it was made by a person of East Indian ancestry and racial origin.

Several months after West End refused to sell the business to the East Indian party, the Lees located a prospective buyer, Mr. Manji, also a man of East Indian origin. Mr. Lee testified that he was advised by Mr. Scott that if he wanted this sale to be completed, he should withdraw his complaint with the Commission. The contemplated purchase was not proceeded with at that time and the board stated, "It is clear from the evidence that Mr. Scott was putting pressure upon Mr. Lee after Mr. Scott learned of the complaint, by closing the store and preventing Mr. Lee from selling the business unless he dropped his complaint".

However, Mr. Manji later bypassed Mr. Lee and negotiated directly with Mr. Scott, thereby avoiding the necessity of purchasing the business. Mr. Manji became a tenant of West End and the respondents asserted during their testimony that the tenancy agreement was evidence that they do not discriminate against East Indians.

Nevertheless, it was the view of the board that Mr. Scott's treatment of Mr. Manji did not accord with his real views towards East Indians as possible tuck shop operators. The chairman stated, "I find on the evidence that Mr. Scott, faced with Mr. Lee's complaint and the certain knowledge that Mr. Lee was going to pursue it, quickly adopted, as an expedient opportunity in the circumstances, Mr. Manji as a tenant when Mr. Manji approached him. Mr. Scott saw Mr. Manji as offering a plausible defence to the accusations that were being made against him by Mr. Lee".

The board therefore held that Mr. Scott had breached the Code in rejecting the prospective purchasers of Mr. Tabar and Mr. Lee and in refusing consent to assignments of the lease. The results of this breach, in the view of the board, were considerable financial loss as well as stress and mental anguish.

The board then addressed the fact that the complainants were not the persons directly discriminated against because of their own race, colour, nationality, ancestry or place of origin. The board, however, observed that the complainants suffered significant losses because they could not sell their businesses, given the respondents' refusal to consent to the assignment of the lease. Could they therefore succeed in obtaining compensation under the Code on this basis?

It was the opinion of the board that Mr. Lee's and Mr. Tabar's rights to assign their commercial leasehold interests were restricted by their landlord on a ground prohibited by the Code, placing them in a worse position than other commercial tenants in Ontario. They were therefore personally discriminated against with respect to a term or condition of occupancy of commercial accommodation. The board was also of the view that the Code permitted complaints to be filed on behalf of a "class of persons", without the members of the class being named.

Moreover, the board held that the discriminatory acts of Mr. Scott were done by him as an officer and employee who was part of the directing mind or management of the corporate respondent. Since the acts were done during the course of his employment, they were deemed to be the acts of West End. Hence, the corporate respondent was also in breach of the Code.

Having found discrimination, the board ordered the following:

- The respondents shall cease and desist in unlawful discrimination in respect of the rental and occupancy of commercial units they own or manage,

- the respondents are jointly and severally liable to pay forthwith to the complainants, as follows:

  to the complainant, Bahjat Tabar, as damages for the loss arising in respect of the sale of his business, the sum of $9,000; as general damages, the sum of $1,000; and as interest, the sum of $4,326.00;

to the complainants, Chong Man Lee and Kyung S. Lee; as damages for the loss arising in respect of the sale of their business, the sum of $20,300; and as interest, the sum of $8,784;

to the complainant, Chong Man Lee, as general damages, the sum of $3,500; and as interest, the sum of $1,514.

STATISTICAL TABLES

Tables on Complaints Received **Page**

1 By Region and Ground, 1984/85 70
2 By Region and Ground, 1984/85 (Employment) 70

3 By Ground and Provision, 1984/85 72
4 By Ground and Provision, 1983/84 73

5 By Type of Handicap, 1984/85 (83/84) 75

6 By Sex of Complainant and Ground, 1984/85 (83/84) 76

7 Commission Initiated Complaints by Ground, 1984/85 (83/84) 77

8 Complaints Received by Year and Ground, 1975/76 - 1984/85 78

Tables on Complaints Closed

9 By Disposition and Ground, 1984/85 80
10 By Disposition and Ground, 1983/84 81

11 Settlements Effected by Ground, 1984/85 83
12 Settlements Effected by Ground, 1983/84 84

13 By Disposition, Ground and Provision, 1984/85 86

14 By Disposition, Sex of Complainant and Ground, 1984/85 87

15 By Disposition, Type of Employment and Ground, 1984/85 89

16 By Type of Work and Ground, 1984/85 90

17 By Type of Industry and Ground, 1984/85 92

Other Tables

18 Boards of Inquiry Appointed and Completed, 1984/85 (83/84) 93

19 Inquiries/Voluntary Compliance/Public Education 1984/85 (83/84) 94

20 Race Relations Cases/Consultations/Public Education by Sector, 1984/85 (83/84) 96

TABLE 1 - Complaints Received by Region of Intake and Ground: 1984/85

This table shows the numbers of cases filed in each region, by ground of complaint, and the percentages that each ground represented of the region's total intake of cases. Thus, it provides for a comparison of workloads by region as well as of frequency of Code usage by the protected groups across the province. The geographical boundaries of each region are delineated in the map shown on page 32 and further details are given in the comments under "Regional Activities".

The three Toronto regions combined received 919 cases or 57 per cent of the total intake of cases by the Commission in 1984/85. The Toronto East (Scarborough) region alone received 341 cases or 21 per cent of the total, followed by Toronto Central (Downtown Toronto) with 315 or 20 per cent and Toronto West (Mississauga) with 263 or 16 per cent.

The Southwestern region (including the new Hamilton-Niagara Region) received the largest number of cases of any one separate region, with 398 or 25 per cent of the provincial total. The Northern region received 155 cases or 10 per cent of the total and the Eastern region received 127 cases or 8 per cent.

A comparison of the grounds cited in complaints shows that complaints citing handicap represented the highest percentage of cases received by every region, except Toronto West, followed by race or sex.

Complaints citing race represented 29 per cent of the total intake of cases in Toronto West, 24 per cent in Toronto Central, 19 per cent in the Southwestern and 13 per cent in the Eastern. Sex (gender) complaints accounted for 25 per cent of the Eastern caseload, 21 per cent of the Northern, and 13 per cent of the Toronto Central and West Regions.

Complaints citing the grounds of age and sexual harassment comprised the fourth and fifth highest percentages.

TABLE 2 - (Employment) Complaints Received by Region of Intake and Ground: 1984/85

This table is similar to Table 1 but pertains to complaints in the area of employment only. The trends shown are similar to those reflected in Table 1.

TABLE 1 – Complaints Received by Region of Intake and Ground: 1984/85

Ground: Region:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Other	Total
Eastern	17 (13)	2 (2)	2 (2)	32 (25)	6 (5)	15 (12)	4 (3)	3 (2)	42 (33)	4 (3)	127 (100)
Northern	14 (9)	3 (2)	4 (3)	33 (21)	14 (9)	14 (9)	10 (6)	4 (3)	56 (36)	3 (2)	155 (100)
Southwestern	78 (19)	11 (3)	12 (3)	64 (16)	43 (11)	43 (11)	20 (5)	11 (3)	95 (23)	21 (6)	398 (100)
Toronto Central	77 (24)	17 (5)	21 (7)	41 (13)	15 (5)	30 (10)	13 (4)	7 (2)	89 (28)	5 (2)	315 (100)
Toronto East	66 (19)	19 (6)	11 (3)	53 (15)	27 (8)	31 (9)	20 (6)	8 (2)	92 (27)	14 (5)	341 (100)
Toronto West	76 (29)	5 (2)	16 (6)	34 (13)	25 (10)	19 (7)	11 (4)	6 (2)	64 (24)	7 (3)	263 (100)
Total	328 (21)	57 (4)	66 (4)	257 (16)	130 (8)	152 (10)	78 (5)	39 (2)	438 (27)	54 (3)	1599 (100)

TABLE 2 – (Employment) Complaints Received by Region of Intake and Ground: 1984/85

Eastern	8 (9)	1 (1)	1 (1)	28 (32)	6 (7)	14 (16)	3 (3)	—	27 (31)	—	88 (100)
Northern	5 (4)	2 (2)	4 (3)	29 (24)	10 (8)	12 (10)	7 (6)	1 (1)	51 (42)	—	121 (100)
Southwestern	58 (18)	6 (2)	10 (3)	55 (17)	42 (13)	34 (10)	17 (5)	6 (2)	99 (30)	—	327 (100)
Toronto	178 (25)	31 (4)	42 (6)	110 (15)	67 (9)	65 (9)	21 (3)	11 (2)	191 (27)	3 (-)	719 (100)
Total	249 (20)	40 (3)	57 (5)	222 (18)	125 (10)	125 (10)	48 (4)	18 (1)	368 (29)	3 (-)	1255 (100)

* Public Assistance, Record of Offences, Reprisal and Breach of Settlement.

TABLES 3 and 4 - Complaints Received by Ground and Provision, 1984/85 (1983/84)

The number of complaints received increased in 1984/85. A total of 1,599 complaints were filed last year, or 29 per cent more than the total of 1,237 registered in 1983/84.

Complaints on the ground of handicap constituted the highest percentage of the total, at 27 per cent, followed by sex (gender and sexual harassment combined), at 24 per cent, and race at 21 per cent. These three grounds combined comprised 72 per cent of the total number of cases filed.

Increases were registered in all major grounds: 51 per cent in handicap, 47 per cent in sex, 20 per cent in age and 15 per cent in race. Significant increases were seen in the number of complaints citing marital status and creed, at 212 per cent and 78 per cent, respectively.

The employment provisions of the Code were by far the most frequently used, comprising 78 per cent of the total number of cases. There was a shift in 1984/85 between the number of complaints citing the "services" provisions, which dropped from 11 per cent to 9 per cent, and the numbers of complaints citing "accommodation", which increased from 9 per cent to 10 per cent.

TABLE 3 - Complaints Received by Ground and Provision, 1984/85

Ground:

Code Provisions:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Public Assistance (Only in Accommodation)	Record of Offences (Only in Employment)	Reprisal/Breach of Settlement	**Total**	Percentage
Services	35	10	7	23	-	10	8	1	50			-	**144**	9
Accommodation	36	7	1	7	5	17	22	19	15	34		-	**163**	10
Contracts	4	-	1	2	-	-	-	1	2			-	**10**	1
Employment	249	40	57	222	125	125	48	18	368		3	-	**1,255**	78
Vocational Associations	4	-	-	3	-	-	-	-	3			-	**10**	1
Reprisal	-	-	-	-	-	-	-	-	-			16	**16**	1
Breach of Settlement	-	-	-	-	-	-	-	-	-			1	**1**	-
Total	**328**	**57**	**66**	**257**	**130**	**152**	**78**	**39**	**438**	**34**	**3**	**17**	**1,599**	100
Percentage	21	4	4	16	8	10	5	2	27	2	-	1	100	
Extension of Code Provisions Also Cited in Complaints:														
Constructive Discrimination	5	5	15	28	-	5	-	2	9	1	-	-	**70**	43
Association Discrimination	11	1	-	4	1	1	2	4	4	1	-	1	**30**	18
Announced Discrimination	-	-	-	-	-	-	-	-	1	1	-	-	**2**	1
Advertising	-	3	2	6	-	2	1	1	2	-	-	-	**17**	10
Application Forms	-	-	2	7	-	14	15	-	5	-	-	-	**43**	26
Employment Agencies	1	1	-	2	-	-	-	-	-	-	-	-	**4**	2
Employment Plans	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	**17**	**10**	**19**	**47**	**1**	**22**	**18**	**7**	**21**	**3**	-	**1**	**166**	100

TABLE 4 – Complaints Received by Ground and Provision, 1983/84

Ground: Code Provisions:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Public Assistance (Only in Accommodation)	Record of Offences (Only in Employment)	Reprisal/Breach of Settlement	Total	Percentage
Services	47	9	5	15	-	8	2	9	41			-	136	11
Accommodation	30	8	1	7	8	8	9	18	6	14		-	109	9
Contracts	2	-	3	4	-	-	-	-	-			-	9	1
Employment	204	54	26	149	122	111	14	12	242		6	-	940	76
Vocational Associations	3	1	2	-	-	-	-	-	1			-	7	-
Reprisal	-	-	-	-	-	-	-	-	-			35	35	3
Breach of Settlement	-	-	-	-	-	-	-	-	-			1	1	-
Total	**286**	**72**	**37**	**175**	**130**	**127**	**25**	**39**	**290**	**14**	**6**	**36**	**1,237**	100
Percentage	23	6	3	14	11	11	2	3	23	1	-	3	100	
Extension of Code Provisions Also Cited in Complaints:														
Constructive Discrimination	3	-	4	18	-	3	-	2	13	1	-	-	44	59
Association Discrimination	4	-	-	3	-	1	-	2	3	1	-	-	14	19
Announced Discrimination	-	-	-	-	-	-	-	2	-	-	-	-	2	3
Advertising	-	-	2	2	-	-	-	-	-	-	-	-	4	5
Application Forms	1	1	1	2	-	1	-	1	3	-	-	-	10	13
Employment Agencies	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Employment Plans	-	-	-	-	-	-	-	-	1	-	-	-	1	1
Total	**8**	**1**	**7**	**25**	-	**5**	-	**7**	**20**	**2**	-	-	**75**	100

TABLE 5

Complaints received citing physical or mental handicaps as the prohibited ground of discrimination, comprised 27 per cent of the total complaints received in 1984/85. They totalled 438, or 51 per cent more than the 290 received in 1983/84. Increases were registered in all types of handicap cited, which were generally similar to those cited in the two previous years, since the new Code introduced handicap as a protected ground.

General diseases or disorders were cited in 136 complaints, or 31 per cent of the total, followed by multiple handicaps, at 14 per cent, sensory impairments at 13 per cent and mental handicaps (learning disability, mental retardation and mental disorder combined) at 12 per cent.

TABLE 5 – Complaints Received by Type of Handicap and Provision, 1984/85 (1983/84)

Provision:	1984/85							1983/84						
Handicap:	Services	Accommodation	Contracts	Employment	Vocational Associations	Total	Percentage	Services	Accommodation	Contracts	Employment	Vocational Associations	Total	Percentage
Sensory (vision/hearing/speech/etc. impairments)	10	3	-	41	1	55	13	10	2	-	26	-	38	13
Respiratory (asthma/lung diseases/etc.)	-	-	-	10	-	10	2	-	-	-	8	-	8	3
Limbs and Digits (amputation/impairment of limb/digit/etc.)	-	3	-	47	-	50	11	2	-	-	39	-	41	14
Cardiovascular (heart disease/hypertension/stroke/etc.)	-	1	-	18	-	19	4	1	-	-	8	-	9	3
Neuromuscular (dystrophy/sclerosis/cerebral palsy/quadriplegia/etc.)	7	3	1	11	-	22	5	12	1	-	7	-	20	7
Neurological (epilepsy/seizures/brain injury/etc.)	5	-	-	28	1	34	8	4	1	-	12	-	17	6
General Diseases or Disorders (back injuries/allergies/cancer/diabetes/hernia/etc.)	12	-	-	124	-	136	31	3	-	-	88	-	91	32
Miscellaneous (multiple handicaps/obesity/etc.)	2	-	-	57	1	60	14	2	-	-	28	-	30	10
Learning Disability (dyslexia/etc.)	-	-	-	2	-	2	1	1	-	-	2	1	4	1
Mental Retardation (or mental impairment)	8	3	1	3	-	15	3	1	1	-	3	-	5	2
Mental Disorder (psychiatric illness/personality disorders/addictions/etc.)	6	2	-	27	-	35	8	5	2	-	20	-	27	9
Total	50	15	2	368	3	438	100	41	7	-	241	1	290	100
Percentage	11	3	1	84	1	100		14	3	-	83	-	100	

TABLE 6 - Complaints Received by Sex of Complainant and Ground

Males			Females	
1983/84	1984/85		1984/85	1983/84
171	221	Race/Colour	102	112
50	32	Ethnic Origin	25	22
24	47	Creed	18	12
42	50	Sex	200	130
4	5	Sexual Harassment	125	126
65	82	Age	69	62
8	24	Marital Status	51	17
19	10	Family Status	29	20
190	269	Handicap	164	95
4	9	Public Assistance	25	10
6	3	Record of Offences	-	-
16	7	Reprisal	9	19
-	-	Breach of Settlement	1	1
599	759	Totals	818	626
49%	48%		52%	51%

TABLE 6

Females continued to file more complaints than males and this overall difference may be due to the much greater number of complaints on grounds of sex and sexual harassment filed by females.

In complaints alleging discrimination because of handicap, race and creed, the number filed by males greatly exceeds the number filed by females.

As shown by Table 14, complaints filed by females also registered a higher rate of settlements in practically all grounds, even in those under which more complaints were filed by males.

TABLE 7 - Commission Initiated Complaints by Ground, 1984/85 (1983/84)

	1984/85	1983/84
Race/Colour	6	3
Creed	1	1
Sex	7	3
Age	1	-
Marital Status	2	-
Handicap	5	5
Total	22	12

TABLE 7

Under section 31(2) of the Code, the Commission may initiate complaints at the request of persons, or on its own initiative, where violations of the Code are apparent.

Fourteen of the complaints initiated by the Commission in 1984/85 dealt with discriminatory application forms and advertisements, where the respondents were initially resistant to comply with the Code's requirements.

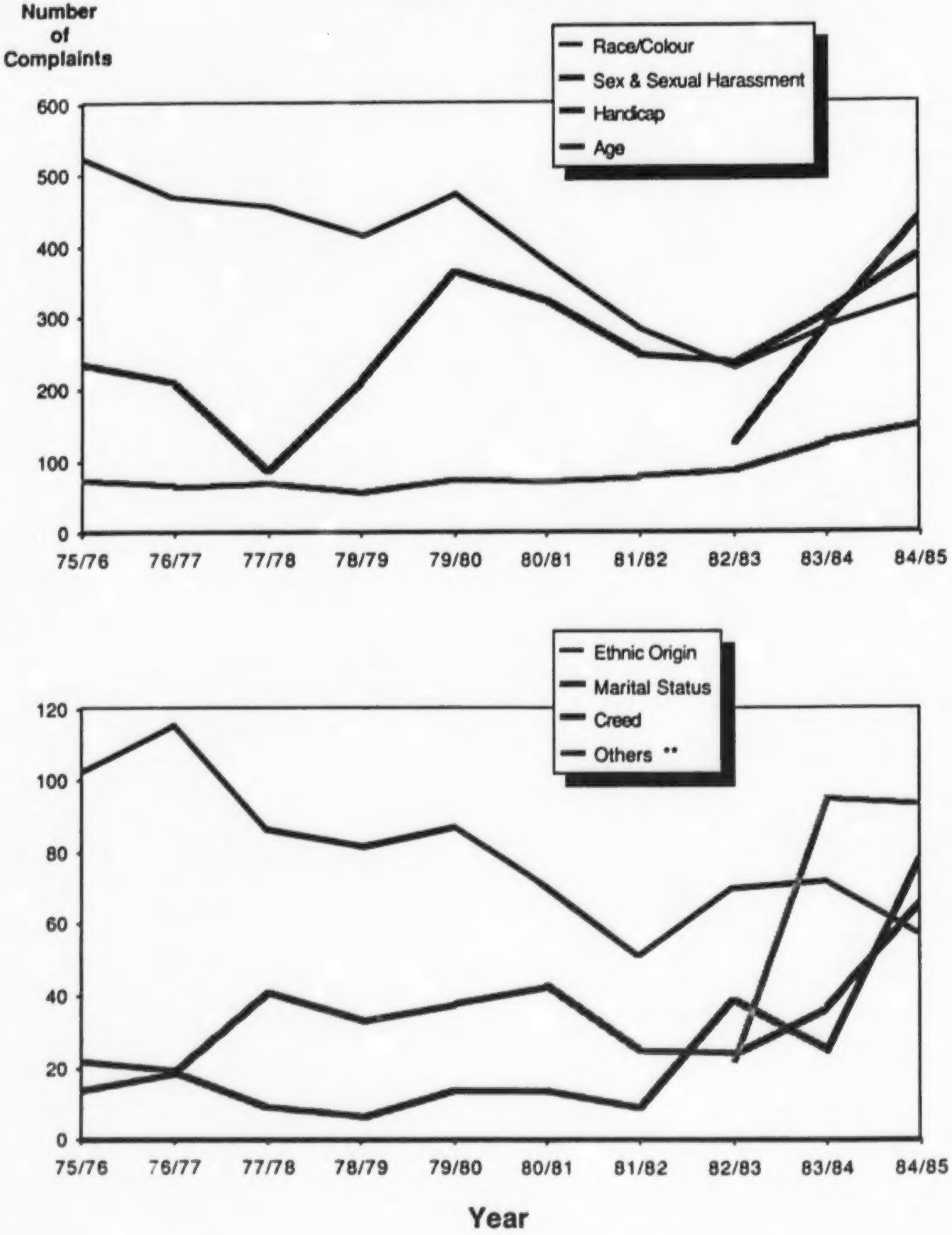
Four complaints were against taxi-cab companies operating in Hamilton and Toronto. Following media articles reporting on the respondents' willingness to comply with clients' requests not to send East Indian and Black drivers to them, the Commission initiated complaints against the companies. Three of these cases are being investigated and one has been settled.

Another situation looked into by the Commission pertains to a policy by a landlord to require single tenants to provide a co-signer for their leases, a condition not applied to couples. This matter is proceeding to a board of inquiry.

Another case is against a union, based on the results of the investigation into complaints against a Board of Education, alleging sex discrimination against blue collar females. It pertains to the union having been a party to the collective agreement which sanctioned discriminatory employment conditions and calculation of seniority. Settlement negotiations are being conducted at this point.

Cases Received by Grounds of Discrimination,

1975/76 - 1984/85



** Family Status, Record of Offences, Receipt of Public Assistance, Reprisals and Breach of Settlement.

TABLES ON COMPLAINTS CLOSED

Tables on cases closed are indicators of the types of case disposition and of the nature of settlements.

Tables 9 and 10 – Complaints Closed by Disposition and Ground 1984/85 (1983/84)

One thousand and seventy cases were disposed of in 1984/85, representing an increase of 6 per cent over the 1,012 case disposed of in 1983/84. This increase was achieved concurrently with increases in the intake of cases and in other compliance activities which absorbed considerable staff resources. (These workload increases are shown in Table 3 and 4.)

The rate of settlements in 1984/85 increased by 6 per cent to 74 per cent, from 68 per cent in 1983/84. The rates of dismissals and withdrawals decreased by 4 per cent and 2 per cent, respectively.

Settled cases refer to complaints in which the complainant, respondent and Commission have reached a satisfactory resolution of the matter in conciliation.

Withdrawn complaints are those in which the complainant has indicated that he or she does not wish to proceed with the matter.

Dismissed cases are complaints in which conciliation has not resulted in settlement, and the Commission, upon evaluating the complaint, decides that the evidence does not warrant the appointment of a board of inquiry.

The parties are given reasons in writing for the Commission's decision to dismiss a complaint and are given the opportunity to have the case reconsidered by the Commission, in light of new evidence or arguments they may wish to submit. In 1984/85 there were 65 such request for reconsideration. During the year 51 reconsiderations were completed, leading to reversals of the initial disposition in 10 cases. This compares to 66 requests in 1983/84 and 54 completions, leading to two reversals of the initial dispositions. At the end of 1984/85 there were 50 requests in process.

Caseload in Process

Nine-hundred and eighty cases in process were brought forward from 1983/84. During 1984/85, 1,599 new cases were received and 1,070 closed; the caseload in process at the end of fiscal year 1984/85 was therefore 1,507, or a 54 per cent increase.

TABLE 9 – Complaints Closed by Disposition and Ground, 1984/85

Ground: Disposition:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Public Assistance	Record of Offences	Reprisal	Breach of Settlement	Total
Settled	137	30	21	149	77	78	40	29	193	22	2	10	-	788
	64%	60%	62%	84%	81%	74%	85%	82%	70%	100%	100%	83%	-	74%
Dismissed	50	8	9	13	8	20	3	3	37	-	-	2	1	154
	23%	16%	26%	7%	8%	19%	7%	9%	14%	-	-	17%	100%	14%
Withdrawn	27	12	4	16	10	8	4	3	44	-	-	-	-	128
	13%	24%	12%	9%	11%	7%	18%	9%	16%	-	-	-	-	12%
Total	214	50	34	178	95	106	47	35	274	22	2	12	1	1,070

TABLE 10 – Complaints Closed by Disposition and Ground, 1983/84

Ground: Disposition:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Public Assistance	Record of Offences	Reprisal	Total
Settled	164 61%	30 51%	26 76%	136 74%	70 71%	89 78%	17 65%	13 68%	125 71%	12 75%	3 50%	5 50%	690 68%
Dismissed	71 26%	20 34%	5 15%	25 13%	10 10%	12 11%	7 27%	4 21%	16 9%	4 25%	1 17%	2 20%	177 18%
Withdrawn	33 13%	9 15%	3 9%	24 13%	19 19%	12 11%	2 8%	2 11%	36 20%	- -	2 33%	3 30%	145 14%
Total	268	59	34	185	99	113	26	19	177	16	6	10	1,012

TABLES 11 and 12 – Settlements Effected by Ground, 1984/85 (1983/84)

Monetary compensation in 1984/85 reached a total of $593,088 for 272 complainants, or 35 per cent of all complaints settled, as compared to a total of $865,189 for 326 complainants, or 47 per cent of all complaints settled, in 1983/84.

Complainants receiving offers of a job or facility numbered 198 in 1984/85, marking an increase over the 158 such offers in the previous year.

TABLE 11 – Settlements Effected by Ground, 1984/85

Settlement: / Ground:	Specific and General Damages	Number of Complainants Who Received Damages	Offer of Job or Facility	Offer of or Consideration for Next Job or Facility	Affirmative Action Implemented	Seminars With Respondent Staff	Review of Practices, Policies or Documents	Issuance or Correction of References	Letter of Apology to Complainant	Written Declaration of Management Policies
Race/Colour	$105,727	(46)	42	20	1	9	26	24	24	49
Ethnic Origin	14,109	(12)	6	7	-	2	7	-	1	9
Creed	18,594	(7)	5	-	-	1	7	3	3	7
Sex	127,052	(68)	29	19	4	13	54	17	20	75
Sexual Harassment	100,627	(52)	8	3	1	4	9	22	19	37
Age	34,824	(16)	24	18	1	9	20	4	4	31
Marital Status	4,144	(5)	10	8	-	1	10	1	1	7
Family Status	5,750	(8)	5	9	-	2	7	4	3	13
Handicap	99,174	(53)	60	33	-	5	30	23	22	61
Receipt of Public Assistance	500	(1)	8	7	-	-	5	-	1	8
Record of Offences	140	(1)	-	1	-	-	-	-	-	1
Reprisal	82,447	(3)	1	-	-	-	-	2	1	1
Total	$593,088	(272)	198	125	7	46	175	100	99	299

TABLE 12 – Settlements Effected by Ground, 1983/84

Settlement: Ground:	Specific and General Damages	Number of Complainants Who Received Damages	Offer of Job or Facility	Offer of or Consideration for Next Job or Facility	Affirmative Action Implemented	Seminars With Respondent Staff	Review of Practices, Policies or Documents	Issuance or Correction of References	Letter of Apology to Complainant	Written Declaration of Management Policies
Race/Colour	$98,204	(65)	33	25	8	22	56	16	33	71
Ethnic Origin	7,085	(7)	3	7	1	2	8	3	3	8
Creed	39,570	(10)	6	4	-	3	5	3	6	6
Sex	174,811	(75)	31	21	10	17	33	16	22	60
Sexual Harassment	71,271	(55)	8	7	-	10	18	26	28	47
Age	370,973	(50)	18	15	-	9	31	8	13	27
Marital Status	2,606	(4)	4	4	-	2	11	3	7	9
Family Status	2,176	(6)	5	3	-	1	3	1	5	10
Handicap	88,942	(48)	45	50	-	9	55	27	33	50
Receipt of Public Assistance	550	(2)	3	4	-	1	4	1	2	9
Record of Offences	1,400	(2)	1	-	-	-	-	1	-	2
Reprisal	7,601	(2)	1	-	-	-	-	2	-	4
Total	$865,189	(326)	158	140	19	76	224	107	152	303

TABLE 13 - Complaints Closed by Disposition, Ground and Provision, 1984/85

One thousand and seventy cases were disposed of in 1984/85. This table shows a distribution of the closed cases according to the social areas where the situations complained of occurred, in correlation with the type of disposition.

Cases dealing with accommodation (purchase and rental of housing and commercial units, terms and conditions of leases, etc.) registered the highest rate of settlements, at 82 per cent, followed by employment cases at 74 per cent, services cases at 64 per cent and cases in the other four social areas combined, at 62 per cent.

Table 13 - Complaints Closed by Disposition, Ground and Provision, 1984/85

Ground: Disposition:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Public Assistance	Record of Offences	Reprisal/Breach of Settlement	Total	Percentage
						EMPLOYMENT								
Settled	89	21	20	130	68	65	20	11	162	-	2	-	588	74
Dismissed	38	7	7	13	6	13	2	1	28	-	-	-	115	14
Withdrawn	18	10	2	14	8	8	1	1	31	-	-	-	93	12
Sub-Total	**145**	**38**	**29**	**157**	**82**	**86**	**23**	**13**	**221**	-	**2**	-	**796**	
						ACCOMMODATION								
Settled	25	6	-	7	9	9	19	12	6	22	-	-	115	82
Dismissed	4	-	1	-	2	1	1	1	-	-	-	-	10	7
Withdrawn	6	2	-	-	2	-	2	2	1	-	-	-	15	11
Sub-Total	**35**	**8**	**1**	**7**	**13**	**10**	**22**	**15**	**7**	**22**	-	-	**140**	
						SERVICES								
Settled	20	3	-	10	-	4	1	5	24	-	-	-	67	64
Dismissed	4	1	1	-	-	5	-	1	8	-	-	1	21	20
Withdrawn	3	-	1	1	-	-	1	-	11	-	-	-	17	16
Sub-Total	**27**	**4**	**2**	**11**	-	**9**	**2**	**6**	**43**	-	-	**1**	**105**	
						CONTRACTS/VOCATIONAL ASSOCIATIONS/REPRISAL/BREACH OF SETTLEMENT								
Settled	3	-	1	2	-	-	-	1	1	-	-	10	18	62
Dismissed	4	-	-	-	-	1	-	-	1	-	-	2	8	28
Withdrawn	-	-	1	1	-	-	-	-	1	-	-	-	3	10
Sub-Total	**7**	-	**2**	**3**	-	**1**	-	**1**	**3**	-	-	**12**	**29**	

TABLE 14 - Complaints Closed by Disposition, Sex of Complainant and Ground, 1984/85

Males								Females						
Withdrawn		Dismissed		Settled		Total		Total	Settled		Dismissed		Withdrawn	
Nos.	%	Nos.	%	Nos.	%	Nos.		Nos.	Nos.	%	Nos.	%	Nos.	%
14	11	36	29	76	60	126	Race	86	58	68	15	17	13	15
5	17	7	23	18	60	30	Ethnic Origin	20	12	60	1	5	7	35
4	20	6	30	10	50	20	Creed	13	10	77	3	23	-	-
4	12	3	9	26	79	33	Sex	140	119	85	9	6	12	9
1	25	1	25	2	50	4	Sexual Harassment	90	74	82	7	8	9	10
5	9	14	24	39	67	58	Age	49	40	82	6	12	3	6
1	9	2	18	8	73	11	Marital Status	33	29	88	1	3	3	9
1	8	3	25	8	67	12	Family Status	23	21	91	-	-	2	9
28	17	27	16	109	67	164	Handicap	104	80	77	10	10	14	13
-	-	-	-	4	100	4	Public Assistance	18	18	100	-	-	-	-
-	-	-	-	2	100	2	Record of Offences	-	-	-	-	-	-	-
-	-	2	40	3	60	5	Reprisal	7	7	100	-	-	-	-
-	-	-	-	-	-	-	Breach of Settlement	1	-	-	1	100	-	-
63	-	**101**	-	**307**	-	**471**	**Total ***	**584**	**468**	-	**53**	-	**63**	-
13%	-	22%	-	65%	-	100%	Percentage	100%	80%	-	9%	-	11%	-

* The difference between the totals on this table and on Table 9 represents the Commission-initiated complaints closed this year.

TABLE 14

Complaints filed by females registered an average settlement rate of 80% against 65% by males, a clear confirmation of the pattern noticed last year when the respective averages were 75% and 63%.

TABLE 15 (Employment) Complaints Closed by Disposition, Type of Employment and Ground, 1984/85

Seven hundred and seven cases dealing with employment situations under Section 4 of the Code were closed in 1984/85. This Table details the types of employment situations giving rise to the complaints.

Complaints involving termination of employment continued to be the highest at 350, or 50 per cent, followed by recruitment and hiring at 203, or 29 per cent, and problems during employment (such as promotions, transfers, general terms and conditions, etc.) at 154, or 22 per cent.

Complaints involving recruitment and hiring were settled more often than the other types. They registered a settlement rate of 81 per cent against 70 per cent for terminations and 67 per cent for problems during employment.

TABLE 15 – (Employment) Complaints Closed by Disposition, Type of Employment and Ground, 1984/85

Ground: / Type of Disposition:	Race/Colour Black	Race/Colour East Indian	Race/Colour Asian	Race/Colour Native Indian	Race/Colour White	RACE - TOTAL	ETHNIC ORIGIN	CREED	SEX	AGE	HANDICAP	OTHERS *	TOTAL
RECRUITMENT AND HIRING													
Settled	16	3	2	2	1	24	10	4	45	28	38	16	165
Dismissed	2	1	1	-	-	4	2	1	1	5	3	2	18
Withdrawn	3	-	-	1	-	4	2	-	2	4	6	2	20
Sub-Total	**21**	**4**	**3**	**3**	**1**	**32**	**14**	**5**	**48**	**37**	**47**	**20**	**203**
Percentage	10	2	2	2	-	16	7	2	24	18	23	10	100
TERMINATION													
Settled	19	17	1	2	1	40	11	7	57	28	90	11	244
Dismissed	15	6	3	1	-	25	3	3	4	6	22	1	64
Withdrawn	4	2	1	-	2	9	4	1	7	2	19	-	42
Sub-Total	**38**	**25**	**5**	**3**	**3**	**74**	**18**	**11**	**68**	**36**	**131**	**12**	**350**
Percentage	11	7	1	1	1	21	5	3	20	10	38	3	100
DURING EMPLOYMENT													
Settled	16	3	3	3	1	26	-	10	20	8	36	3	103
Dismissed	3	2	2	-	1	8	2	3	7	2	4	-	26
Withdrawn	4	1	1	-	-	6	3	1	5	2	6	2	25
Sub-Total	**23**	**6**	**6**	**3**	**2**	**40**	**5**	**14**	**32**	**12**	**46**	**5**	**154**
Percentage	15	4	4	2	1	26	3	9	21	8	30	3	100
Total	**82**	**35**	**14**	**9**	**6**	**146**	**37**	**30**	**148**	**85**	**224**	**37**	**707**
Percentage	12	5	2	1	1*	21	4	4	21	12	32	5	100

* Marital status; family status; record of offences and reprisal

TABLE 16 – (Employment) Complaints Closed by Type of Work and Ground, 1984/85

	Ground:									
Type of Work:	Race/Colour	Ethnic Origin	Creed	Sex	Sexual Harassment	Age	Handicap	Others *	TOTAL	Percentage
Professional/ Managerial/Technical	24	11	11	18	7	10	23	6	**110**	14
Sales	8	2	2	22	7	13	20	5	**79**	10
Clerical	18	3	4	27	20	14	30	13	**129**	16
Crafts and Foremen/Women	14	5	3	3	2	8	15	2	**52**	6
Operatives	23	4	3	12	4	3	34	2	**85**	11
Services	28	5	6	32	40	25	48	4	**188**	24
Labour/General	31	7	1	34	9	12	54	5	**153**	19
Total	**146**	**37**	**30**	**148**	**89**	**85**	**224**	**37**	**796**	100

* Marital status, family status, record of offences and reprisal

TABLE 16

"Type of Work" denotes the occupational categories of complainants. Complaints in the services categories registered the highest number, while crafts and foremen/women registered the lowest.

TABLE 17 - Cases Closed by Respondent's Type of Industry and Ground, 1984/85

This table correlates the grounds of complaints to the type of industry in which the situation complained of occurred.

The type of industry in which the highest percentage of complaints occurred was Community, Business and Personal Services, with 382 cases or 36 per cent of the total. The largest sub-category within this group and the largest industry overall was Hotels/Restaurants/Taverns with 127 complaints.

Manufacturing was the second largest type of industry against which complaints were filed, with 262 cases, or 25 per cent of the total.

The Construction and Natural Resources industries were named in the lowest percentages of cases, with only 10 and 6 cases, respectively.

The distribution of types of industry by each ground follows the general patterns described above: that is, for each ground, the highest and lowest percentages of cases per industry category are the same as for the total cases.

TABLE 17 - Cases Closed by Respondent's Type of Industry and Ground, 1984/85

Ground: Type of Industry:	Race/Colour Black	 East Indian	 Asian	 Native Indian	 White	RACE - TOTAL	ETHNIC ORIGIN	CREED	SEX	SEXUAL HARASSMENT	AGE	HANDICAP	OTHER *	TOTALS
NATURAL RESOURCES	-	1	-	-	-	1	1	-	-	1	-	7	-	10
MANUFACTURING														
Metals/Parts/Machinery	5	6	-	-	-	11	2	1	5	2	9	21	2	53
Food/Tabacco	2	-	-	-	1	3	1	1	7	2	1	7	1	23
Wood/Furniture/Paper	1	1	-	-	-	2	1	-	12	3	1	9	2	30
Automotive/Aircraft	2	2	-	2	-	6	3	1	22	1	5	7	2	47
Electrical	1	4	-	1	-	6	2	1	1	-	5	11	3	29
Others	11	1	3	2	2	19	5	3	10	9	5	21	8	80
Sub-total	**22**	**14**	**3**	**5**	**3**	**47**	**14**	**7**	**57**	**17**	**26**	**76**	**18**	**262**
CONSTRUCTION	2	-	-	-	-	2	-	-	1	1	1	1	-	6
TRANSPORTATION/COMMUNICATIONS/UTILITIES	11	1	1	-	1	14	2	1	7	3	3	9	2	41
TRADE AND RETAIL	9	5	3	1	-	18	2	3	24	11	13	45	7	123
FINANCE, INSURANCE, REAL ESTATE	25	9	3	2	3	42	12	3	14	10	19	21	62	183
COMMUNITY/BUSINESS/PERSONAL SERVICES														
Schools/Colleges/Univer.	7	2	-	1	-	10	3	2	5	2	2	12	2	38
Hospitals/Physicians	13	1	1	-	-	15	1	6	11	1	6	22	7	69
Employment Agencies	1	-	-	-	-	1	5	-	-	-	2	1	-	9
Hotels/Restaurants	10	3	2	5	-	20	1	1	27	30	13	30	5	127
Building Services	5	2	-	-	-	7	2	4	7	5	6	5	4	40
Other	13	3	3	3	1	23	5	6	22	8	5	23	7	99
Sub-total	**49**	**11**	**6**	**9**	**1**	**76**	**17**	**19**	**72**	**46**	**34**	**93**	**25**	**382**
PUBLIC ADMINISTRATION	6	5	1	1	2	15	2	1	3	6	11	22	3	63
TOTAL	**124**	**46**	**17**	**18**	**10**	**215**	**50**	**34**	**178**	**95**	**107**	**274**	**117**	**1070**

* Marital Status/Family Status/Record of Offences/Reprisal/Breach of Settlement

TABLE 18 - Boards of Inquiry Appointed and Completed, 1984/85 (1983/84)

	1984/85		1983/84	
Boards Appointed	41	(56) *	33	(60) *
Boards Completed:	17	(20)	28	(44)
Pre-hearing Settlements	7	(9)	13	(18)
Decisions for Complainant	6	(7)	7	(15)
Decisions for Respondent	4	(4)	7	(10)
Complaints Withdrawn	-		1	(1)
Board Decisions Under Appeal	7	(10)	6	(14)
Court Decisions - For Complainant	1	(6)		
Boards Incomplete (from all years)	62	(98)	32	(61)

* Number of complainants involved

TABLE 18

Forty-one boards were appointed in 1984/85, an increase of 24 per cent over 1983/84.

Of the boards completed, the majority continued to be settled by the parties, before or during the hearing, rendering a decision by the Board unnecessary. Of the ten hearings that came to a conclusion, six Boards made findings of discrimination and imposed settlements in favour of the complainants and four dismissed the allegations as unsubstantiated.

TABLE 19 - Inquiries, Voluntary Compliance And Public Education, 1984/85 (1983/84)

	1984/85 Compliance Total	1983/84 Compliance Total
Inquiries	51,779	41,491
Referrals	14,345	10,272
Informal Resolutions	134	346
Application Form Reviews	741	745
Advertising Reviews	275	255
Exemptions	89	68
Public Education Activities	618	739
Publications Distributed	368,435	342,723

TABLE 19

Major increases were registered in public inquiries, referrals and distribution of Commission's publications of, respectively, 25 per cent, 40 per cent and 8 per cent over the totals in 1983/84.

TABLE 20 - Closed Race Relations Cases, Consultations and Public Education Activities by Sector, 1984/85 (1983/84)

Definition of Activities

Mediations:

Cases in which the Division endeavours to diffuse specific racial and ethnic tensions or conflicts at the community and institutional levels by mediating between parties in conflict.

Projects:

Cases in which the Division participates at the community or institutional level in the development or implementation of specific programmes or policies designed to improve race relations.

Consultations:

Occasions when the Division provides information and advice on race relations issues to individuals and organizations as requested.

Public Education Activities:

Activities the Division organizes or participates in that are designed to heighten public awareness of race related issues and/or the role and mandate of the Race Relations Division and the Ontario Human Rights Commission.

Public Education Projects:

Cases in which the Division designs and delivers race relations training programs to community organizations or institutions in order to heighten awareness to various race related issues.

Increase in Consultations

Consultations increased by 312 or 64 per cent in 1984/85, over the total in 1983/84. This is attributable to greater emphasis being placed on communicating with more institutions and community organizations in order to encourage wider community development in the area of race relations.

Other Work

The Division also carried out 5 research projects, handled 2,074 public inquiries/referrals and distributed 12,206 copies of its publications.

TABLE 20 – Closed Race Relations Cases, Consultations and Public Education Activities by Sector, 1984/85 (1983/84)

	1984/85					1983/84				
	Cases					Cases				
Sector:	Community Relations Mediations	Community Relations Projects	Public Education Projects	Consultations	Public Education Activities	Community Relations Mediations	Community Relations Projects	Public Education Projects	Consultations	Public Education Activities
Neighbourhood Relations	41	1	0	18	3	36	5	*	15	*
Public Services/Facilities	17	0	1	15	4	13	1		10	
Criminal Justice System	28	3	3	40	8	38	9		33	
Educational Institutions	17	8	9	124	86	16	7		71	
The Workplace	3	8	2	44	18	8	2		15	
Unions	0	2	0	6	0	1	-		10	
Media	14	0	0	15	59	16	1		10	
Health/Social Services	1	2	0	16	4	2	5		15	
Community Organizations	16	12	5	398	203	17	16		229	
Religious Institutions	4	0	0	7	0	1	-		10	
Government	5	9	0	76	28	8	13		47	
Community at Large	2	6	1	42	35	1	7		24	
Total	148	51	21	801	448	157	66		489	

* Previously reported as part of the overall totals for the Commission.

ONTARIO HUMAN RIGHTS COMMISSION STAFF*

at March 31, 1985

Office of the Chairman

Jones, Howard
Shaw, Marian
Silberman, Toni
Wood, Glenda

Office of the Executive Director

Brown, George
Jim, Serena

Legal Section

Lazor, Yan
Talamo, Barbara

Head Office

Armstrong, Jill
Beange, Carolynn
Gaspar, Fern
McGregor, Sharon
Mears, Laurie
Reynolds, Jessica
Rouse, Philip
Shakeel, Sabir

Conciliation and Compliance Division

Hurley, Helen
Nakamura, Mark
Stratton, Jim
Svegzda, Laima

Unit for the Handicapped

Binstock, Rob
Gulamhussein, Zarina
Justason, Barbara
Lawrence, Greg
Ramanujam, Sita
Ruiter, Fred
Singh, Vidya

Race Relations Division

Bennett, Irene
Bullen, Sharon
Charles, Joyce
Chiappa, Anna
Chopra, Raj
DaSilva, Mike
D'Ignazio, Danny
Edwards, Afroze
Gill, Surinder
Guttentag, Gail
Ifejika, Sam
Lloyd, Eva
Ramondt, Susan
Siu, Bobby
Schweitzer-Rozenberg, Ruth
Whist, Eric
Zaidi, Urooj

Eastern Ontario Region

Ackroyd, Lynda
Legault, Therese
Polley, Joe
Richard, Maurice

Hamilton-Niagara Region

Jostman, Susan
Marino, Len
McSween, Selwyn
Witter, Merv

Northern Ontario Region

Fratesi, Debra
Lapalme, Gilles
Mitchell, Irene
St.-Onge, Jo-Anne
Welch, Dan

Southwestern Ontario Region

Barnes, Dorothy
Burns, Walter
Carrick, Anne
Dahlin, Anita
Harrington, Rick

Toronto Central Region

Cargill-Sim, Fiona
Chapman, Shirley
Crean, Fiona
Holt, Silvilyn
Johnson, Beverley
Mullings, Paulette
Nebout, Maggie
Obermuller, Diane
Speranzini, Gary
Stern, Doris

Toronto East Region

Caffrey, Colm
Della Vella, Rick
Dewe, David
Edwards, Neil
Fiddes, Judy
Kerna, Gloria
Mankikar, Ann
Morrison, Glen
Mowatt, Ann
Palacio, Roger
Robson, Beverley

Toronto West Region

Arnot, Perry
Fox, Anita
Frank, Diane
Kaczmarski, Joan
MacKenzie, Wes
McKee, Anne
Marcuz, Vic
Mutimer, Connie
Skey, Carol Ann

* This does not include staff members on contract or secondment.

COMMISSION OFFICES

Head Office

400 University Avenue
Toronto, Ontario
M7A 1T7
(416) 965-6841

Branch Offices

Hamilton

119 King Street West
L8N 3Z9
(416) 521-7738

Kenora

808 Robertson Street
P9N 1X9
(807) 468-3128

Kingston

1055 Princess Street
K7L 1H3
(613) 547-3414

Kitchener

824 King Street West
N2G 1G1
(519) 744-8101

London

205 Oxford Street East
N6A 5G6
(519) 439-3231

Ottawa

2197 Riverside Drive
K1H 7X3
(613) 523-7530

Sault Ste. Marie

390 Bay Street
P6A 1X2
(705) 949-3331

St. Catharines

205 King Street
L2R 3J5
(416) 682-7261

Sudbury

199 Larch Street
P3E 5P9
(705) 675-4455

Thunder Bay

435 James Street South
P7E 6E3
(807) 475-1693

Timmins

273 Third Avenue
P4N 1E2
(705) 267-6231

Toronto Central

400 University Avenue
Toronto M7A 1T7
(416) 965-6841

Toronto East

2500 Lawrence Avenue East
Scarborough M1P 2R7
(416) 750-3575

Toronto West

2 Robert Speck Parkway
Mississauga L4Z 1H8
(416) 273-7811

Windsor

500 Ouellette Avenue
N9A 1B3
(519) 256-8278